

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

EDWARD CARTER, FRANK FIORILLO,)
KEVIN LAMM, JOSEPH NOFI, and)
THOMAS SNYDER,) CV 07 1215

Plaintiffs,)

vs.)

INCORPORATED VILLAGE OF OCEAN)
BEACH; MAYOR JOSEPH C. LOEFFLER,)
JR., individually and in his)
official capacity; former mayor)
NATALIE K. ROGERS, individually)
and in her official capacity,)
OCEAN BEACH POLICE DEPARTMENT;)
ACTING DEPUTY POLICE CHIEF)
GEORGE B. HESSE, individually)
and in his official capacity;)
SUFFOLK COUNTY; SUFFOLK COUNTY)
POLICE DEPARTMENT, SUFFOLK)
COUNTY DEPARTMENT OF CIVIL)
SERVICE; and ALISON SANCHEZ,)
individually and in her)
official capacity,)

Defendants.)

DEPOSITION OF CHRISTOPHER JAMES MORAN
New York, New York
Monday, June 8, 2009

Reported by:
KRISTIN KOCH, RPR, RMR, CRR, CLR

<p style="text-align: right;">Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5 June 8, 2009</p> <p>6 10:35 a.m.</p> <p>7</p> <p>8</p> <p>9 Deposition of CHRISTOPHER JAMES</p> <p>10 MORAN, held at the offices of Thompson</p> <p>11 Wigdor & Gilly, LLP, New York, New York,</p> <p>12 before Kristin Koch, a Registered</p> <p>13 Professional Reporter, Registered Merit</p> <p>14 Reporter, Certified Realtime Reporter,</p> <p>15 Certified Livenote Reporter and Notary</p> <p>16 Public of the State of New York.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 3</p> <p>1</p> <p>2 APPEARANCES:</p> <p>3</p> <p>4 THOMPSON WIGDOR & GILLY LLP</p> <p>5 Attorneys for Plaintiffs</p> <p>6 85 Fifth Avenue</p> <p>7 New York, New York 10003</p> <p>8 BY: ARIEL Y. GRAFF, ESQ.</p> <p>9</p> <p>10 RIVKIN RADLER LLP</p> <p>11 Attorneys for Incorporated Village of</p> <p>12 Ocean Beach, Joseph C. Loeffler Jr.,</p> <p>13 Natalie K. Rogers and Ocean Beach Police</p> <p>14 Department</p> <p>15 926 RexCorp Plaza</p> <p>16 Uniondale, New York 11556-0926</p> <p>17 BY: KENNETH A. NOVIKOFF, ESQ.</p> <p>18</p> <p>19 MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C.</p> <p>20 Attorneys for George B. Hesse</p> <p>21 530 Saw Mill River Road</p> <p>22 Elmsford, New York 10523</p> <p>23 BY: KEVIN W. CONNOLLY, ESQ.</p> <p>24</p> <p>25 ALSO PRESENT: FRANK FIORILLO</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 4</p> <p>1</p> <p>2 CHRISTOPHER JAMES MORAN,</p> <p>3 called as a witness, having been duly sworn</p> <p>4 by a Notary Public, was examined and</p> <p>5 testified as follows: 10:35</p> <p>6 MR. GRAFF: This deposition will be 10:35</p> <p>7 governed by the Federal Rules of Civil 10:35</p> <p>8 Procedure and local rules for the Eastern 10:35</p> <p>9 District. 10:35</p> <p>10 MR. NOVIKOFF: As every other 10:35</p> <p>11 deposition has been. Regular stips, so we 10:35</p> <p>12 are clear. 10:35</p> <p>13 MR. GRAFF: Regular stips that we 10:35</p> <p>14 have had in our depositions. 10:35</p> <p>15 EXAMINATION BY 10:35</p> <p>16 MR. GRAFF: 10:35</p> <p>17 Q. Good morning, again, Mr. Moran. We 10:35</p> <p>18 met very briefly off the record. Let me 10:35</p> <p>19 re-introduce myself. My name is Ari Graff. I 10:35</p> <p>20 am a lawyer representing the plaintiffs in this 10:35</p> <p>21 lawsuit against Ocean Beach and others in 10:35</p> <p>22 connection with which you are testifying here 10:35</p> <p>23 today. 10:35</p> <p>24 Do you understand that you are 10:36</p> <p>25 testifying under oath? 10:36</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 5</p> <p>1 Moran</p> <p>2 A. Yes. 10:36</p> <p>3 Q. And that failure to tell the truth 10:36</p> <p>4 could be punishable as a criminal offense? 10:36</p> <p>5 A. Yes. 10:36</p> <p>6 Q. Have you ever testified under oath 10:36</p> <p>7 before? 10:36</p> <p>8 A. No. 10:36</p> <p>9 Q. So one thing that's important to 10:36</p> <p>10 keep in mind is that we have a court reporter 10:36</p> <p>11 here today. She is taking down word for word 10:36</p> <p>12 everything that is said. To make sure that the 10:36</p> <p>13 transcript is clear, it's important, first of 10:36</p> <p>14 all, that all your responses be made verbally, 10:36</p> <p>15 not a shake of the head. 10:36</p> <p>16 A. Okay. 10:36</p> <p>17 Q. A second related issue is that we 10:36</p> <p>18 need to be very careful not to speak over each 10:36</p> <p>19 other, so if you could, please try to make sure 10:36</p> <p>20 that I finish the question before you start 10:36</p> <p>21 answering. By the same token, I will do my 10:36</p> <p>22 best not to speak over you and we will have a 10:36</p> <p>23 clear transcript of what was said. 10:36</p> <p>24 A. Okay. 10:36</p> <p>25 Q. If you don't hear or understand a 10:36</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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1 **Moran**

2 **question, please tell me and I will repeat or 10:36**

3 **rephrase it so that you do understand it. 10:36**

4 A. Okay. 10:36

5 **Q. If you want to correct an answer at 10:36**

6 **any point during the deposition that is an 10:37**

7 **answer to an earlier question, that's fine, you 10:37**

8 **can do that. Just let me know. 10:37**

9 A. Okay. 10:37

10 MR. NOVIKOFF: And obviously even if 10:37

11 my client answers a question, he will have 10:37

12 that opportunity to correct any answer to 10:37

13 the extent necessary even if it's based 10:37

14 upon confusion with the question. 10:37

15 MR. GRAFF: Consistent with the 10:37

16 federal rules. 10:37

17 MR. NOVIKOFF: Yes, absolutely. 10:37

18 **Q. If you would like to take a break at 10:37**

19 **any point, that's completely fine and you are 10:37**

20 **allowed to do that. Just let me know. The one 10:37**

21 **thing that I would ask is if there is a pending 10:37**

22 **question that I have asked that you haven't yet 10:37**

23 **answered, that you first answer that question 10:37**

24 **before we take the break. 10:37**

25 A. Okay. 10:37

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1 **Moran**

2 **in the last 24 hours? 10:38**

3 A. Yes. 10:38

4 **Q. And when -- how long ago did you 10:38**

5 **have the most recent drink? 10:38**

6 A. Last night at 10:30 p.m. 10:38

7 **Q. How many drinks did you have? 10:38**

8 A. One beer. 10:38

9 **Q. You only had one beer all day 10:38**

10 **yesterday? 10:38**

11 A. Yes. 10:38

12 **Q. Are you sick at all today? 10:38**

13 A. No. 10:38

14 **Q. Is there any reason that you can 10:38**

15 **think of why you won't be able to answer my 10:38**

16 **questions truthfully and completely today? 10:39**

17 A. No. 10:39

18 **Q. Are you represented by an attorney 10:39**

19 **in connection with this deposition? 10:39**

20 MR. NOVIKOFF: Let the record 10:39

21 reflect that Mr. Moran is presently an 10:39

22 employee of the Village, so, therefore, 10:39

23 since I represent the Village in this 10:39

24 action, I am representing Mr. Moran at this 10:39

25 deposition. 10:39

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1 **Moran**

2 **Q. If you answer a question, I will 10:37**

3 **assume that you understood it. There is no way 10:37**

4 **for me to know if you didn't, so it's 10:37**

5 **important, just let me know and that way I can 10:37**

6 **repeat or rephrase a question. 10:37**

7 MR. NOVIKOFF: Nope. Sorry, Ari. 10:37

8 That one I will not agree to. If you ask a 10:38

9 question, there is no assumption that my 10:38

10 client understood it. Obviously I am 10:38

11 entitled to object if I so choose and he is 10:38

12 entitled to correct his answer in 10:38

13 accordance with the federal rules. 10:38

14 MR. GRAFF: Yes, all in accordance 10:38

15 with the federal rules. 10:38

16 MR. NOVIKOFF: Yes. 10:38

17 **Q. Mr. Moran, are you presently taking 10:38**

18 **any medications that could affect your ability 10:38**

19 **to testify truthfully and completely today? 10:38**

20 A. No. 10:38

21 **Q. Have you consumed any controlled 10:38**

22 **substances, drugs, narcotics, in the last 24 10:38**

23 **hours? 10:38**

24 A. No. 10:38

25 **Q. Have you had any alcoholic beverages 10:38**

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1 **Moran**

2 **Q. Mr. Moran, do you understand that? 10:39**

3 A. Yes. 10:39

4 **Q. Mr. Moran, has anyone communicated 10:39**

5 **to you the nature of the claims that the 10:39**

6 **plaintiffs are making in this lawsuit? 10:39**

7 MR. NOVIKOFF: Other than counsel? 10:39

8 MR. GRAFF: Other than counsel. 10:39

9 A. Just what the lawyer -- 10:39

10 MR. NOVIKOFF: Don't say -- any 10:39

11 conversations that you have had with me or 10:39

12 with Mr. Welch are privileged and you don't 10:39

13 talk about that. Anything other than 10:39

14 conversations with me or Mr. Welch you can 10:40

15 tell Mr. Graff. 10:40

16 A. Just what my attorney told me. 10:40

17 **Q. And following up on what 10:40**

18 **Mr. Novikoff said, none of my questions are 10:40**

19 **aimed to get at any information communicated 10:40**

20 **between you and Mr. Novikoff or you and 10:40**

21 **Mr. Welch, and if you have any concern that a 10:40**

22 **question might touch on that, please let me 10:40**

23 **know and please feel free to consult with 10:40**

24 **Mr. Novikoff on that issue. 10:40**

25 A. Okay. 10:40

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<p style="text-align: right;">Page 10</p> <p>1 Moran</p> <p>2 Q. Prior to speaking with Mr. Novikoff 10:40</p> <p>3 or Mr. Welch, were you aware that the 10:40</p> <p>4 plaintiffs had initiated a lawsuit against 10:40</p> <p>5 Ocean Beach? 10:40</p> <p>6 A. No. 10:40</p> <p>7 Q. Do you know who I am referring to by 10:40</p> <p>8 "plaintiffs"? 10:40</p> <p>9 A. Yes. The -- can I back up? 10:40</p> <p>10 MR. NOVIKOFF: Yes, back up. 10:40</p> <p>11 A. The five officers; Mr. Nofi, 10:40</p> <p>12 Fiorillo, Lamm, Snyder and Shore. 10:40</p> <p>13 Q. And I can represent Mr. Shore is not 10:41</p> <p>14 a plaintiff. The fifth would be Mr. Carter. 10:41</p> <p>15 MR. NOVIKOFF: Okay. 10:41</p> <p>16 A. Okay. 10:41</p> <p>17 Q. How did you learn that those 10:41</p> <p>18 individuals were plaintiffs in this case? 10:41</p> <p>19 A. I heard from George, Chief Hesse. 10:41</p> <p>20 Q. And when did you hear that from 10:41</p> <p>21 Mr. Hesse? 10:41</p> <p>22 A. I can't recall when. 10:41</p> <p>23 Q. Can you recall the year? 10:41</p> <p>24 A. No. 10:41</p> <p>25 Q. Can you recall whether you heard it 10:41</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 11</p> <p>1 Moran</p> <p>2 from Mr. Hesse in a face-to-face communication? 10:41</p> <p>3 MR. NOVIKOFF: As opposed to over 10:41</p> <p>4 the phone or over the computer? 10:42</p> <p>5 MR. GRAFF: Yes. 10:42</p> <p>6 A. I can't recall. 10:42</p> <p>7 Q. Can you recall anything about the 10:42</p> <p>8 context in which you heard that from Mr. Hesse? 10:42</p> <p>9 A. I know he told me about it, but I 10:42</p> <p>10 don't specifically know actually when he told 10:42</p> <p>11 me. 10:42</p> <p>12 Q. And what is it that he told you? 10:42</p> <p>13 A. That they were suing the 10:42</p> <p>14 information. 10:42</p> <p>15 Q. Did he tell you what they were suing 10:42</p> <p>16 the Village for? 10:42</p> <p>17 A. No. 10:42</p> <p>18 Q. Did you ask? 10:42</p> <p>19 A. No. 10:42</p> <p>20 Q. Did you ever ask anyone other than 10:42</p> <p>21 counsel what they were suing the Village for? 10:42</p> <p>22 A. No. 10:42</p> <p>23 Q. Did you ever discuss with anyone 10:42</p> <p>24 what they may have been suing the Village for? 10:42</p> <p>25 A. No. 10:42</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 12</p> <p>1 Moran</p> <p>2 Q. Prior to learning that the 10:42</p> <p>3 plaintiffs were suing the Village in your 10:42</p> <p>4 conversation with Mr. Hesse, had you ever 10:42</p> <p>5 discussed with anyone the possibility that any 10:42</p> <p>6 of the plaintiffs might bring a lawsuit against 10:42</p> <p>7 Ocean Beach? 10:42</p> <p>8 A. No. 10:42</p> <p>9 MR. NOVIKOFF: Objection to form. 10:42</p> <p>10 You can answer. 10:43</p> <p>11 A. No. 10:43</p> <p>12 Q. Other than that conversation with 10:43</p> <p>13 Mr. Hesse -- well, first of all, was it one 10:43</p> <p>14 conversation or more? 10:43</p> <p>15 A. I can't recall. 10:43</p> <p>16 Q. Can you recall if anyone else was 10:43</p> <p>17 present for the one or more conversations you 10:43</p> <p>18 had with Mr. Hesse on the subject? 10:43</p> <p>19 A. No. 10:43</p> <p>20 Q. Has anyone else other than counsel 10:43</p> <p>21 ever -- or Mr. Hesse ever indicated to you that 10:43</p> <p>22 they were aware that the plaintiffs had filed a 10:43</p> <p>23 lawsuit against Ocean Beach? 10:43</p> <p>24 MR. NOVIKOFF: Objection. When you 10:43</p> <p>25 say "other than counsel," you are presuming 10:43</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 13</p> <p>1 Moran</p> <p>2 counsel has said something along those 10:43</p> <p>3 lines. 10:43</p> <p>4 MR. GRAFF: No, but I am making 10:43</p> <p>5 clear that I am excluding -- 10:43</p> <p>6 MR. NOVIKOFF: All right. You don't 10:43</p> <p>7 have to say "other than counsel." That's 10:43</p> <p>8 clear. He knows not to speak about counsel 10:43</p> <p>9 conversations. 10:43</p> <p>10 A. No. 10:43</p> <p>11 Q. So your only knowledge about the 10:43</p> <p>12 lawsuit that you are testifying here today, the 10:43</p> <p>13 nature of that lawsuit, is that the plaintiffs 10:43</p> <p>14 are suing Ocean Beach and you heard that from 10:43</p> <p>15 George Hesse; is that correct? 10:44</p> <p>16 MR. NOVIKOFF: Objection. Your 10:44</p> <p>17 question says about the nature of the 10:44</p> <p>18 lawsuit. Mr. Moran may have knowledge 10:44</p> <p>19 about certain of the allegations that are 10:44</p> <p>20 set forth in the lawsuit, but if the 10:44</p> <p>21 question is is his only knowledge that 10:44</p> <p>22 there was a lawsuit filed from Mr. Hesse, 10:44</p> <p>23 that's appropriate. 10:44</p> <p>24 Q. With that clarification, is that 10:44</p> <p>25 correct? 10:44</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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<p>1 Moran</p> <p>2 MR. NOVIKOFF: Why don't you -- 10:44</p> <p>3 A. Can you -- 10:44</p> <p>4 Q. Other than Mr. Hesse, did anybody 10:44</p> <p>5 else ever indicate to you that the plaintiffs 10:44</p> <p>6 had filed a lawsuit against Ocean Beach? 10:44</p> <p>7 A. No. 10:44</p> <p>8 Q. Are you aware of any of the 10:44</p> <p>9 allegations involved in that lawsuit? 10:44</p> <p>10 MR. NOVIKOFF: Why don't you just 10:44</p> <p>11 ask him if he has read the Complaint. 10:44</p> <p>12 Q. I will ask that first. Have you 10:44</p> <p>13 read the Complaint? 10:44</p> <p>14 MR. NOVIKOFF: Here is -- 10:44</p> <p>15 A. The -- 10:44</p> <p>16 MR. NOVIKOFF: I can't help you. 10:44</p> <p>17 A. The deposition you are talking 10:44</p> <p>18 about? 10:44</p> <p>19 MR. NOVIKOFF: No. There was a 10:44</p> <p>20 Complaint filed by the plaintiffs in 10:44</p> <p>21 federal court, so the question is have you 10:45</p> <p>22 ever read what the plaintiffs have filed in 10:45</p> <p>23 federal court? 10:45</p> <p>24 A. No, no, I haven't. 10:45</p> <p>25 Q. Has anyone ever communicated to you 10:45</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Moran</p> <p>2 the nature of any of the allegations set forth 10:45</p> <p>3 in the Complaint or lawsuit? 10:45</p> <p>4 A. Can you repeat that. 10:45</p> <p>5 Q. Do you have any idea what the 10:45</p> <p>6 allegations in the Complaint are? 10:45</p> <p>7 A. Yes. Just a little bit of it. 10:45</p> <p>8 Q. And could you explain? 10:45</p> <p>9 MR. NOVIKOFF: What was the basis -- 10:45</p> <p>10 you need to ask him what the basis of his 10:45</p> <p>11 knowledge is, because if it's based upon 10:45</p> <p>12 what counsel told him, then I am going to 10:45</p> <p>13 instruct him not to answer. If it's based 10:45</p> <p>14 upon some independent knowledge, then he 10:45</p> <p>15 can answer that. 10:45</p> <p>16 Q. Is the little bit of knowledge that 10:45</p> <p>17 you referred to something that you learned from 10:45</p> <p>18 counsel? 10:45</p> <p>19 MR. NOVIKOFF: Either Mr. Welch or 10:45</p> <p>20 myself. 10:45</p> <p>21 A. No. 10:45</p> <p>22 Q. Okay. Could you explain? 10:45</p> <p>23 A. All I know about the case is that 10:45</p> <p>24 the five plaintiffs were let go from the 10:45</p> <p>25 Village and from what I could -- from what 10:46</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 Moran</p> <p>2 people -- from what they -- they were let go 10:46</p> <p>3 and they were suing the Village. That's all I 10:46</p> <p>4 know of what the case was. 10:46</p> <p>5 Q. And do you know when the 10:46</p> <p>6 plaintiffs -- 10:46</p> <p>7 MR. GRAFF: Before I ask the 10:46</p> <p>8 question, Mr. Novikoff -- 10:46</p> <p>9 MR. NOVIKOFF: Same understanding. 10:46</p> <p>10 Notwithstanding how the witness 10:46</p> <p>11 characterizes what transpired in April of 10:46</p> <p>12 '06, we take the position that they were 10:46</p> <p>13 not rehired, you take the position that 10:46</p> <p>14 they were let go and/or terminated. 10:46</p> <p>15 However you phrase the question in 10:46</p> <p>16 accordance with our prior understanding at 10:46</p> <p>17 these depositions does not one way or the 10:46</p> <p>18 other impact upon either your theory of the 10:46</p> <p>19 case or our theory of the case. 10:46</p> <p>20 MR. GRAFF: Thank you. 10:46</p> <p>21 Q. Do you know when the plaintiffs were 10:46</p> <p>22 let go? 10:46</p> <p>23 A. It was April of 2006. 10:47</p> <p>24 Q. And how did you learn that they had 10:47</p> <p>25 been let go? 10:47</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Moran</p> <p>2 A. We had our annual meeting and at the 10:47</p> <p>3 time the five -- Nofi, Fiorillo, Lamm, Carter 10:47</p> <p>4 and the other officer went inside by themselves 10:47</p> <p>5 with George, whatever they had discussed they 10:47</p> <p>6 discussed, we were all outside, and then they 10:47</p> <p>7 left after the fact on a water taxi and went 10:47</p> <p>8 back to the mainland and then we started our 10:47</p> <p>9 normal meeting. 10:47</p> <p>10 Q. Can you explain what you mean by 10:47</p> <p>11 outside and inside? 10:47</p> <p>12 A. Okay. We were -- the meeting took 10:47</p> <p>13 place at the boathouse, so we were all outside 10:47</p> <p>14 the boathouse in the street and then the five 10:48</p> <p>15 officers went inside to talk to George, and 10:48</p> <p>16 whatever they said, it was them privately and 10:48</p> <p>17 George, and then they -- once they were 10:48</p> <p>18 finished they all left and went on a water taxi 10:48</p> <p>19 and went back to the mainland. 10:48</p> <p>20 Q. And did they all go in, as far as 10:48</p> <p>21 you could see, together? 10:48</p> <p>22 MR. NOVIKOFF: Objection to form. 10:48</p> <p>23 You can answer. Unless I instruct 10:48</p> <p>24 you not to answer something, even if I 10:48</p> <p>25 object to the question, you must answer it. 10:48</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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1 Moran
2 A. I can't recall if they were -- I 10:48
3 can't recall that. 10:48
4 **Q. Do you recall or do you know how 10:48**
5 **long they were inside speaking with George? 10:48**
6 A. No. 10:48
7 **Q. Did you remain outside from the time 10:48**
8 **that the plaintiffs went in until the time that 10:48**
9 **they came out? 10:49**
10 A. Yes. 10:49
11 **Q. Do you remember approximately how 10:49**
12 **long that was? 10:49**
13 A. No. 10:49
14 **Q. Do you remember what you were doing 10:49**
15 **outside? 10:49**
16 A. I was talking to other officers. 10:49
17 **Q. Who else was with you outside? 10:49**
18 A. I can't recall. 10:49
19 **Q. Can you recall any of the 10:49**
20 **individuals who were outside with you? 10:50**
21 A. No, not at this time. 10:50
22 **Q. Can you recall if Pat Cherry was 10:50**
23 **with you? 10:50**
24 A. Yeah. 10:50
25 **Q. And was he with you? 10:50**
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1 **Moran**
2 A. He was outside when we were all -- 10:50
3 he was outside with us. 10:50
4 MR. NOVIKOFF: Listen to the 10:51
5 question. The question was not who was 10:51
6 outside, but who was with you while you 10:51
7 were talking to other officers. That was 10:51
8 the question. 10:51
9 **Q. Okay. And to be clear, other than 10:51**
10 **the others who were outside when you were 10:51**
11 **talking to officers, were there other people 10:51**
12 **who were also there? 10:51**
13 A. Could you -- 10:51
14 **Q. Yes. I just want to make sure we 10:51**
15 **are clear with Mr. Novikoff's clarification. 10:51**
16 **When I am asking now who was with you, I am 10:51**
17 **asking who was outside at the same time in 10:51**
18 **connection with that meeting. Does that make 10:51**
19 **sense? 10:51**
20 A. So you want to know when I was 10:51
21 outside, who else was with me? 10:51
22 **Q. Yes. Who else was in the area? 10:51**
23 MR. NOVIKOFF: I am going to object 10:51
24 to that, because that would be a pretty 10:51
25 broad question, who was in the area. I 10:51
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1 Moran
2 think -- and I don't mean to be problematic 10:51
3 here. I think the witness said that he was 10:51
4 outside talking with other officers and 10:51
5 that's where I thought you were going with 10:52
6 your questions, who was he talking with, as 10:52
7 opposed to who may have been mingling 10:52
8 outside. 10:52
9 **Q. I am asking more broadly. Mingling 10:52**
10 **even if they weren't talking directly with you. 10:52**
11 A. I can't recall at this time. 10:52
12 **Q. But Pat Cherry you do recall was 10:52**
13 **mingling? 10:52**
14 A. I don't recall right -- it's been 10:52
15 three years. 10:52
16 **Q. Do you recall whether Gary Bosetti 10:52**
17 **was mingling or speaking with you? 10:52**
18 A. I can't recall that. 10:52
19 **Q. What about Richie Bosetti? 10:52**
20 A. I can't recall. 10:52
21 **Q. Okay. Rather than going through 10:52**
22 **every single person on the OBPD roster. If we 10:52**
23 **could just leave a space in the transcript and 10:52**
24 **when you review it, if you can remember any of 10:52**
25 **the people who were there, you can just write 10:52**
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1 **Moran**
2 **it in the transcript. 10:52**
3 A. Okay. 10:52
4 MR. NOVIKOFF: I will take that 10:52
5 under advisement. 10:52
6 TO BE FURNISHED:_____. 10:52
7 **Q. How did you get from your home to 10:52**
8 **the boat house the day of the April meeting? 10:53**
9 A. I actually was on the island. 10:53
10 **Q. And where were you? 10:53**
11 A. I have a house on Cottage. My 10:53
12 parents have a house on Cottage Walk, so I 10:53
13 stayed over the night before. 10:53
14 **Q. And did other officers, as far as 10:53**
15 **you know, get to the boathouse that day on the 10:53**
16 **water taxi? 10:53**
17 MR. NOVIKOFF: Objection to form. 10:53
18 A. They took the ferry over from Bay 10:53
19 Shore. 10:53
20 **Q. And did you see any of the 10:53**
21 **plaintiffs get off of the ferry? 10:53**
22 A. I saw Kevin, I saw Kevin Lamm, and 10:53
23 that was it, from what I can recall right now. 10:54
24 **Q. And do you recall if any other 10:54**
25 **officers arrived on a ferry or water taxi that 10:54**
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<p>1 Moran</p> <p>2 you saw before the plaintiffs? 10:54</p> <p>3 A. I can't recall. 10:54</p> <p>4 Q. Do you recall if Tyree Bacon was one 10:54</p> <p>5 of the officers who was outside? 10:54</p> <p>6 A. I can't recall right now. 10:54</p> <p>7 Q. Do you recall whether you or any of 10:54</p> <p>8 the people who were waiting outside had any 10:54</p> <p>9 discussion about why the five plaintiffs were 10:54</p> <p>10 inside? 10:54</p> <p>11 MR. NOVIKOFF: Objection to form. 10:54</p> <p>12 You can answer. 10:54</p> <p>13 A. No. 10:54</p> <p>14 Q. What about as the five plaintiffs 10:54</p> <p>15 left, do you recall if you or anyone else said 10:55</p> <p>16 anything to them? 10:55</p> <p>17 MR. NOVIKOFF: Objection to form. 10:55</p> <p>18 A. No. 10:55</p> <p>19 Q. Do you know where the plaintiffs 10:55</p> <p>20 went when they walked outside? 10:55</p> <p>21 MR. NOVIKOFF: Objection. Form. 10:55</p> <p>22 A. Can you repeat the question. 10:55</p> <p>23 Q. Do you know where the plaintiffs 10:55</p> <p>24 went after they walked outside? 10:55</p> <p>25 MR. NOVIKOFF: Objection. 10:55</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Moran</p> <p>2 A. They went to the water taxi. 10:55</p> <p>3 Q. Did else anybody else go to the 10:55</p> <p>4 water taxi with them? 10:55</p> <p>5 A. No. 10:55</p> <p>6 MR. GRAFF: I am going to ask the 10:55</p> <p>7 court reporter to mark as Exhibit Moran 1 a 10:55</p> <p>8 one-page document bearing Bates number 10:55</p> <p>9 2662. 10:55</p> <p>10 (Moran Exhibit 1, letter dated March 10:55</p> <p>11 11, 2006, Bates stamped 2662, marked for 10:55</p> <p>12 identification.) 10:56</p> <p>13 Q. After Mr. Novikoff has had a chance 10:56</p> <p>14 to compare the marked copy against the copy 10:56</p> <p>15 that I gave him to review, if you could please 10:56</p> <p>16 take a moment to read through the document and 10:56</p> <p>17 let me know when you have read it. 10:56</p> <p>18 MR. NOVIKOFF: Ari, as you know my 10:56</p> <p>19 practice, if you have a question that 10:56</p> <p>20 requires him to read through it, I will 10:56</p> <p>21 give it to him. If the question is "do you 10:57</p> <p>22 recognize the document," that would 10:57</p> <p>23 certainly require him to read it. 10:57</p> <p>24 MR. GRAFF: That will be my very 10:57</p> <p>25 first question. 10:57</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 Moran</p> <p>2 MR. NOVIKOFF: So ask that question 10:57</p> <p>3 and then I will give it to him. 10:57</p> <p>4 Q. After you have read the document, if 10:57</p> <p>5 you could please let me know do you recognize 10:57</p> <p>6 the document. 10:57</p> <p>7 MR. NOVIKOFF: Okay. Read it. 10:57</p> <p>8 (Document review.) 10:57</p> <p>9 MR. NOVIKOFF: The question is yes 10:57</p> <p>10 or no, do you recognize it? 10:57</p> <p>11 A. Yes. 10:57</p> <p>12 Q. And what is the document? 10:57</p> <p>13 A. It's a letter from Chief Hesse 10:57</p> <p>14 saying when the department meeting is. 10:57</p> <p>15 Q. And was that the department meeting 10:57</p> <p>16 in 2006 that you were referring to in the last 10:57</p> <p>17 few minutes? 10:57</p> <p>18 A. Yes. 10:57</p> <p>19 Q. Did you receive this letter? 10:57</p> <p>20 A. Yes, I did. 10:57</p> <p>21 Q. And did you understand when you 10:57</p> <p>22 received the letter what the reference to the 10:57</p> <p>23 annual department meeting was? 10:57</p> <p>24 A. Yes. 10:57</p> <p>25 Q. And what is the annual department 10:58</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Moran</p> <p>2 meeting? 10:58</p> <p>3 A. It's a meeting held every year with 10:58</p> <p>4 all the officers. 10:58</p> <p>5 Q. Is it held at a particular time 10:58</p> <p>6 every year? 10:58</p> <p>7 MR. NOVIKOFF: A specific date or 10:58</p> <p>8 time frame? 10:58</p> <p>9 MR. GRAFF: Time frame. 10:58</p> <p>10 A. It's a meeting held once a year 10:58</p> <p>11 usually in the springtime. 10:58</p> <p>12 Q. And is there a standard set of 10:58</p> <p>13 topics that are covered at that annual meeting? 10:58</p> <p>14 MR. NOVIKOFF: Objection. Form. 10:58</p> <p>15 You can answer. 10:58</p> <p>16 A. Not really. It varies on -- it's 10:58</p> <p>17 usually held in the spring once a year and it 10:58</p> <p>18 varies on -- there is no specific date. It's 10:58</p> <p>19 just a general time frame for when they hold 10:58</p> <p>20 the meeting. 10:58</p> <p>21 Q. Do you know what the purpose of that 10:58</p> <p>22 annual meeting is? 10:58</p> <p>23 MR. NOVIKOFF: Objection to form. 10:58</p> <p>24 You can answer. 10:58</p> <p>25 A. Usually it's training. Like this 10:58</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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<p>1 Moran</p> <p>2 past meeting we had we did departmental 10:59</p> <p>3 training. 10:59</p> <p>4 Q. After the plaintiffs left the April 10:59</p> <p>5 2006 meeting, did the meeting then take place? 10:59</p> <p>6 A. Yes. 10:59</p> <p>7 Q. And what was discussed at the 10:59</p> <p>8 meeting? 10:59</p> <p>9 MR. NOVIKOFF: Only if you can 10:59</p> <p>10 recall. 10:59</p> <p>11 A. I can't really recall. 10:59</p> <p>12 Q. Can you recall anything that was 10:59</p> <p>13 discussed at the meeting? 10:59</p> <p>14 A. No. 10:59</p> <p>15 Q. Can you recall any of the officers 10:59</p> <p>16 or other employees who were present for the 10:59</p> <p>17 meeting? 10:59</p> <p>18 A. No. 10:59</p> <p>19 Q. Do you recall how long the meeting 10:59</p> <p>20 lasted? 10:59</p> <p>21 A. No. 10:59</p> <p>22 Q. Do you recall whether other than 10:59</p> <p>23 plaintiffs anyone else who was present met 10:59</p> <p>24 privately with Mr. Hesse? 10:59</p> <p>25 A. No. 10:59</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Moran</p> <p>2 Q. Do you recall whether there was any 10:59</p> <p>3 reference made to the plaintiffs at that 10:59</p> <p>4 meeting? 10:59</p> <p>5 A. Not that I can recall at this time. 10:59</p> <p>6 Q. Do you recall whether anyone asked 11:00</p> <p>7 Mr. Hesse where the plaintiffs had gone? 11:00</p> <p>8 A. No. 11:00</p> <p>9 MR. NOVIKOFF: Objection to form. 11:00</p> <p>10 A. No. 11:00</p> <p>11 Q. Is there anything that would refresh 11:00</p> <p>12 your recollection regarding what happened 11:00</p> <p>13 during that meeting? 11:00</p> <p>14 A. Repeat the question. 11:00</p> <p>15 Q. Is there anything you can think of, 11:00</p> <p>16 like documents or any other source that you can 11:00</p> <p>17 think of that might refresh your memory about 11:00</p> <p>18 what was discussed at the meeting? 11:00</p> <p>19 A. Not at this time. 11:00</p> <p>20 Q. At what point did you learn that the 11:00</p> <p>21 plaintiffs had been let go by George Hesse when 11:00</p> <p>22 they went in shortly before the meeting? 11:00</p> <p>23 MR. CONNOLLY: Objection. 11:00</p> <p>24 MR. NOVIKOFF: I am going to join 11:01</p> <p>25 in, but just like we did at the last 11:01</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 Moran</p> <p>2 deposition and prior depositions, if 11:01</p> <p>3 Mr. Connolly objects, without me 11:01</p> <p>4 necessarily having to say I join in every 11:01</p> <p>5 time, I am joining in any objection that 11:01</p> <p>6 Mr. Connolly makes. 11:01</p> <p>7 MR. GRAFF: That's fine, and vice 11:01</p> <p>8 versa. 11:01</p> <p>9 MR. NOVIKOFF: And vice versa. 11:01</p> <p>10 MR. CONNOLLY: Yes. 11:01</p> <p>11 MR. GRAFF: Could the court reporter 11:01</p> <p>12 please read back my last question. 11:01</p> <p>13 (Record read.) 11:01</p> <p>14 A. They weren't there when we came 11:01</p> <p>15 back. 11:01</p> <p>16 Q. So did you assume on that basis that 11:01</p> <p>17 they had been let go? 11:01</p> <p>18 A. No. 11:01</p> <p>19 Q. So at what point in time were you 11:01</p> <p>20 certain that they had been let go? 11:02</p> <p>21 A. They weren't at the -- when we came 11:02</p> <p>22 back to start the meeting, they weren't there. 11:02</p> <p>23 Q. Did you consider that maybe they 11:02</p> <p>24 were on a special assignment than having been 11:02</p> <p>25 let go? 11:02</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Moran</p> <p>2 MR. NOVIKOFF: Objection to form. 11:02</p> <p>3 Foundation as well. 11:02</p> <p>4 A. No. 11:02</p> <p>5 Q. Did you consider any other 11:02</p> <p>6 possibility based on their absence other than 11:02</p> <p>7 the conclusion that they had been let go? 11:02</p> <p>8 A. No. 11:02</p> <p>9 Q. Did you at any point ever speak to 11:02</p> <p>10 anyone about your belief that the plaintiffs 11:02</p> <p>11 had been let go? 11:02</p> <p>12 MR. NOVIKOFF: Objection to form. 11:02</p> <p>13 You can answer. 11:02</p> <p>14 A. Repeat the question. 11:02</p> <p>15 Q. What was the first time that you can 11:02</p> <p>16 remember that you ever spoke with anyone about 11:02</p> <p>17 the plaintiffs having been let go? 11:02</p> <p>18 A. After the fact. I spoke to Kevin 11:03</p> <p>19 Lamm. 11:03</p> <p>20 Q. When did you speak to Kevin Lamm? 11:03</p> <p>21 A. Shortly after we had the meeting. 11:03</p> <p>22 Q. Did you speak to him in person? 11:03</p> <p>23 A. Over the phone. 11:03</p> <p>24 Q. And did you speak with him over the 11:03</p> <p>25 phone more than once? 11:03</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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<p>1 Moran</p> <p>2 A. Yes. 11:03</p> <p>3 Q. And do you remember if your first 11:03</p> <p>4 conversation over the phone with Kevin Lamm was 11:03</p> <p>5 the same date as the meeting? 11:03</p> <p>6 A. That I can't recall. 11:03</p> <p>7 Q. Do you recall what you said to Kevin 11:03</p> <p>8 Lamm the first time you spoke with him? 11:03</p> <p>9 A. No. 11:03</p> <p>10 Q. Can you recall anything that you 11:03</p> <p>11 ever said in those conversations with Kevin 11:03</p> <p>12 Lamm? 11:03</p> <p>13 A. Not right now, no. 11:03</p> <p>14 Q. Can you recall anything that Kevin 11:03</p> <p>15 Lamm said to you in those conversations? 11:03</p> <p>16 A. No. 11:03</p> <p>17 Q. Other than Mr. Lamm, did you ever at 11:03</p> <p>18 any point speak with anyone else about the 11:04</p> <p>19 plaintiffs having been let go? 11:04</p> <p>20 A. Joe Nofi called me on my cell phone 11:04</p> <p>21 about a year after the fact, but for about two 11:04</p> <p>22 minutes, if that. 11:04</p> <p>23 Q. And what did Mr. Nofi say? 11:04</p> <p>24 A. Just how my job was going with the 11:04</p> <p>25 city. Nothing to the effect of his case. 11:04</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Moran</p> <p>2 Q. Did he say anything at all about the 11:04</p> <p>3 Ocean Beach Police Department? 11:04</p> <p>4 A. Not that I can recall. 11:04</p> <p>5 Q. What did you say to Mr. Nofi in that 11:04</p> <p>6 conversation? 11:04</p> <p>7 A. I don't recall right now. It's been 11:04</p> <p>8 over a year. 11:04</p> <p>9 Q. What job did you have at that point 11:04</p> <p>10 that he was asking about? 11:05</p> <p>11 A. I was working -- I worked for the 11:05</p> <p>12 City, so he called up to see how my job was, I 11:05</p> <p>13 asked him how his job was with what he was 11:05</p> <p>14 doing. 11:05</p> <p>15 MR. NOVIKOFF: The question was what 11:05</p> <p>16 job were you doing. 11:05</p> <p>17 A. Oh, I was with the city when he 11:05</p> <p>18 called me. 11:05</p> <p>19 Q. Had Mr. Nofi ever called you before 11:05</p> <p>20 on your cell phone? 11:05</p> <p>21 A. No. First time. 11:05</p> <p>22 Q. Did you speak with anyone else about 11:05</p> <p>23 the fact that Mr. Nofi had called you on your 11:05</p> <p>24 cell phone? 11:05</p> <p>25 A. No. 11:05</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 Moran</p> <p>2 Q. Did you speak with anyone else about 11:05</p> <p>3 the fact that you had had conversations with 11:05</p> <p>4 Kevin Lamm about the Ocean Beach Police 11:05</p> <p>5 Department after the plaintiffs were let go? 11:05</p> <p>6 MR. NOVIKOFF: I'm sorry, can you 11:05</p> <p>7 repeat that question again. 11:05</p> <p>8 (Record read.) 11:06</p> <p>9 MR. NOVIKOFF: I am going to object 11:06</p> <p>10 to form, but you can answer. 11:06</p> <p>11 A. Call in reference to the Police 11:06</p> <p>12 Department or just call me -- can you clarify? 11:06</p> <p>13 Q. You had indicated that you had had 11:06</p> <p>14 several telephone conversations with Kevin Lamm 11:06</p> <p>15 after the plaintiffs were let go. 11:06</p> <p>16 Did you ever discuss with anyone the 11:06</p> <p>17 fact that you had had those conversations with 11:06</p> <p>18 Kevin Lamm? 11:06</p> <p>19 A. No. 11:06</p> <p>20 MR. GRAFF: Off the record. 11:06</p> <p>21 (Recess was taken from 11:06 to 11:06</p> <p>22 11:07.) 11:06</p> <p>23 BY MR. GRAFF: 11:07</p> <p>24 Q. Other than Mr. Lamm and Joe Nofi, 11:07</p> <p>25 did you speak with any of the other plaintiffs 11:08</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Moran</p> <p>2 after they were let go? 11:08</p> <p>3 A. No. 11:08</p> <p>4 Q. Other than Mr. Lamm and Mr. Nofi -- 11:08</p> <p>5 strike that. 11:08</p> <p>6 Other than Mr. Lamm, did you ever 11:08</p> <p>7 speak with anyone else about the plaintiffs 11:08</p> <p>8 having been let go? 11:08</p> <p>9 MR. NOVIKOFF: Objection to form. 11:08</p> <p>10 You can answer. 11:08</p> <p>11 A. No. 11:08</p> <p>12 Q. Did you ever speak with George Hesse 11:08</p> <p>13 about the fact that the plaintiffs had been let 11:08</p> <p>14 go? 11:08</p> <p>15 MR. NOVIKOFF: Objection to form. 11:08</p> <p>16 A. Repeat the question. 11:08</p> <p>17 Q. Did you ever speak with George Hesse 11:08</p> <p>18 about the plaintiffs having been let go? 11:08</p> <p>19 MR. NOVIKOFF: Objection to form. 11:08</p> <p>20 It's a very broad question, Ari. 11:08</p> <p>21 A. No. 11:08</p> <p>22 Q. Do you know why the plaintiffs were 11:08</p> <p>23 let go? 11:08</p> <p>24 MR. NOVIKOFF: Objection. 11:08</p> <p>25 A. No. 11:09</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

1 Moran
2 **Q. Did you ever discuss with anyone why 11:09**
3 **the plaintiffs may have been let go? 11:09**
4 A. Nope. 11:09
5 **Q. Did anyone ever communicate to you 11:09**
6 **any reason why they believed the plaintiffs had 11:09**
7 **been let go? 11:09**
8 A. Could you repeat that. 11:09
9 **Q. Sure. Did anyone ever tell you a 11:09**
10 **reason why the plaintiffs had been let go, 11:09**
11 **whether or not you believed that reason to be 11:09**
12 **true? 11:09**
13 A. Kevin Lamm when I was on the phone 11:09
14 with him told me that he thought he got let go 11:09
15 due to the fact for some Halloween incident, I 11:09
16 guess, that happened in the Village. 11:09
17 **Q. And what did you say when Kevin Lamm 11:09**
18 **indicated that to you? 11:09**
19 A. I don't really know why they got let 11:09
20 go, because I wasn't there in the room when it 11:09
21 happened. 11:10
22 **Q. And did you understand what he was 11:10**
23 **referring to as the Halloween incident? 11:10**
24 A. Yes. 11:10
25 **Q. What is the Halloween incident? 11:10**
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1 **Moran**
2 A. I wasn't working at the time it 11:10
3 happened, but some incident went down at one of 11:10
4 the bars, I think at Housers, with -- it's kind 11:10
5 of -- I don't know -- I wasn't working at that 11:10
6 time, so I wasn't there firsthand, but this is 11:10
7 third and fourth, fifth, that something 11:10
8 happened at Housers and I think Kevin was 11:10
9 working at the time. It's pretty vague, 11:10
10 because I wasn't there. 11:10
11 **Q. Other than what you just testified 11:10**
12 **to, do you know any other details about what 11:11**
13 **the Halloween incident involved? 11:11**
14 MR. NOVIKOFF: Objection. Asked and 11:11
15 answered, but you can answer again to the 11:11
16 extent you know. 11:11
17 A. From what I know, something happened 11:11
18 at Housers and I think Kevin was there, was 11:11
19 working, and I don't know the exact details. 11:11
20 Like I said, I wasn't working that night when 11:11
21 it happened, so... 11:11
22 **Q. Other than the fact that Kevin was 11:11**
23 **working, do you know anything at all about the 11:11**
24 **nature of the incident? 11:11**
25 A. I wasn't there, so I don't know. 11:11
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1 Moran
2 **Q. What is the source of your 11:11**
3 **information about the Halloween incident? 11:12**
4 MR. NOVIKOFF: Objection to form. 11:12
5 A. What my source is? 11:12
6 **Q. How do you know anything about the 11:12**
7 **Halloween incident? 11:12**
8 A. I have heard through like third, 11:12
9 fourth, fifth person of what actually happened, 11:12
10 because I wasn't there at the time of the 11:12
11 incident in question. I wasn't working, so... 11:12
12 **Q. Okay. Who are the people who you 11:12**
13 **heard about it from? 11:12**
14 A. I can't recall right at this second. 11:12
15 **Q. Can you recall who any of those 11:12**
16 **people were? 11:12**
17 A. No. 11:12
18 **Q. When Kevin Lamm told you, as you 11:12**
19 **testified, that he thought he had been let go 11:12**
20 **because of something to do with the Halloween 11:12**
21 **incident, did you ask him what he meant by 11:12**
22 **that? 11:12**
23 MR. NOVIKOFF: Objection to form. 11:12
24 A. No. 11:12
25 **Q. Did you think you understood what he 11:12**
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1 **Moran**
2 **meant? 11:12**
3 MR. NOVIKOFF: Objection. 11:12
4 A. Yes. 11:13
5 **Q. And did you understand why he 11:13**
6 **thought that that incident might have resulted 11:13**
7 **in his termination? 11:13**
8 A. No. 11:13
9 **Q. Do you recall if there were any 11:13**
10 **other particular officers other than Kevin Lamm 11:13**
11 **who were involved in that incident? 11:13**
12 A. I wasn't there. I wasn't working, 11:13
13 so I don't know. 11:13
14 **Q. Did you ever hear from anyone who 11:13**
15 **those other officers, if any, may have been? 11:13**
16 A. Repeat the question. 11:13
17 **Q. Did anyone ever say anything to you 11:13**
18 **about other officers who may have been involved 11:13**
19 **in the Halloween incident? 11:13**
20 MR. NOVIKOFF: Objection to form. 11:13
21 A. No. 11:13
22 **Q. Did anyone ever communicate to you 11:13**
23 **that either Gary or Richie Bosetti may have 11:13**
24 **been involved in the Halloween incident? 11:13**
25 A. Yes, but I don't know who. I can't 11:13
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1 Moran
2 recall right now who told me. 11:14
3 **Q. What was the nature of the 11:14**
4 **involvement by the Bosettis in that incident as 11:14**
5 **it was explained to you? 11:14**
6 MR. NOVIKOFF: If you can recall, 11:14
7 you can answer the question. 11:14
8 A. What I can recall from what I have 11:14
9 heard through fourth, fifth, that they were at 11:14
10 Housers at the time that this incident went 11:14
11 down. Other than that, I don't know what 11:14
12 exactly -- what their involvement was, but they 11:14
13 were there at the time. 11:14
14 MR. NOVIKOFF: Ari, I gotta tell 11:14
15 you, you are asking questions about the 11:14
16 Halloween incident. He wasn't there. 11:14
17 A. I wasn't there. 11:14
18 MR. NOVIKOFF: No, no, no. 11:14
19 He has already told you that his 11:14
20 information, whatever it may be to the 11:14
21 extent he recalls anything, is from second, 11:14
22 third, fourth-hand sources. If you want to 11:14
23 ask him, in my opinion, did George Hesse 11:14
24 ever talk to you about the Halloween 11:14
25 incident, that's appropriate, or Mayor 11:14
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1 Moran
2 **about the Halloween incident? 11:15**
3 A. Yes. 11:16
4 **Q. When did you speak to George Hesse 11:16**
5 **about that? 11:16**
6 A. I really can't recall the exact 11:16
7 date. 11:16
8 **Q. And what did George Hesse say when 11:16**
9 **you spoke to him about that? 11:16**
10 A. I can't recall what he told me. I 11:16
11 can't recall. 11:16
12 **Q. Do you recall if you spoke to George 11:16**
13 **Hesse about the Halloween incident more than 11:16**
14 **once? 11:16**
15 A. No. 11:16
16 **Q. Do you recall whether you spoke to 11:16**
17 **him in person? 11:16**
18 A. Yes. 11:16
19 **Q. Did you speak to George Hesse in 11:16**
20 **person about the Halloween incident? 11:16**
21 A. Yeah, I did. 11:16
22 **Q. Do you recall how long the 11:16**
23 **conversation lasted? 11:16**
24 A. No. 11:16
25 **Q. Do you recall anything else that was 11:16**
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1 Moran
2 Loeffler did or Mayor Rogers, because that 11:15
3 wouldn't necessarily be hearsay. I am not 11:15
4 stipulating to that right now, but if he 11:15
5 learned anything from other than the main 11:15
6 actors in this case, I don't see where 11:15
7 that's admissible. 11:15
8 MR. GRAFF: I will get to that. 11:15
9 **Q. Was it ever your perception that the 11:15**
10 **Halloween incident had resulted in any tension 11:15**
11 **between officers of the Ocean Beach Police 11:15**
12 **Department? 11:15**
13 MR. NOVIKOFF: Objection to form. 11:15
14 You can answer if you can understand 11:15
15 it. 11:15
16 A. Can you reframe that. 11:15
17 **Q. Did you ever come to believe that 11:15**
18 **the Halloween incident was the cause for 11:15**
19 **tensions between any officers at the Ocean 11:15**
20 **Beach Police Department? 11:15**
21 MR. NOVIKOFF: Objection to form. 11:15
22 And you have a foundation problem there, 11:15
23 Ari, but you can answer. 11:15
24 A. No. 11:15
25 **Q. Did you ever speak to George Hesse 11:15**
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1 Moran
2 **discussed during that conversation? 11:16**
3 A. Not at this time. 11:16
4 **Q. Do you recall where the conversation 11:16**
5 **took place? 11:16**
6 A. Probably at the police station. 11:16
7 MR. NOVIKOFF: The question is do 11:16
8 you recall. If you do, you do. If you 11:16
9 don't, you don't. Anything that starts 11:17
10 with the word "probably" -- 11:17
11 A. At the police station. 11:17
12 **Q. Do you recall whether anyone else 11:17**
13 **was participating in that conversation? 11:17**
14 A. No. 11:17
15 **Q. No, you don't recall, or -- 11:17**
16 A. No, I don't recall. 11:17
17 MR. NOVIKOFF: You need to be 11:17
18 careful with your questions, Ari. If you 11:17
19 are going to start with the "do you 11:17
20 recall," that could be a problem depending 11:17
21 on how he answers. 11:17
22 **Q. Did you ever speak with Mayor or 11:17**
23 **Trustee Loeffler about the Halloween incident? 11:17**
24 A. No. 11:17
25 **Q. Did you ever speak with Mayor or 11:17**
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1 Moran
2 Police Commissioner Rogers about the Halloween 11:17
3 incident? 11:17
4 MR. NOVIKOFF: Objection to form. 11:17
5 A. No. 11:17
6 Q. Were you issued a new ID card at the 11:17
7 April 2006 annual meeting? 11:17
8 A. Yes. 11:17
9 Q. Do you recall whether anyone else 11:17
10 was issued an ID card? 11:17
11 A. Yes. 11:17
12 Q. Who else was issued an ID card at 11:18
13 that meeting? 11:18
14 A. Other officers. 11:18
15 Q. What was George Hesse's position or 11:18
16 title at the time of the annual meeting? 11:18
17 MR. NOVIKOFF: Objection to form and 11:18
18 foundation. 11:18
19 You can answer. 11:18
20 A. He was the acting police chief. 11:18
21 MR. NOVIKOFF: As of the Halloween 11:18
22 incident? 11:18
23 MR. GRAFF: At the annual meeting. 11:18
24 MR. NOVIKOFF: Okay. 11:18
25 A. The acting police chief. 11:18
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1 Moran
2 A. Sergeant. 11:19
3 Q. And other than the positions of 11:19
4 sergeant and acting police chief, do you know 11:19
5 if George Hesse ever had any other positions at 11:20
6 Ocean Beach? 11:20
7 MR. NOVIKOFF: Form. 11:20
8 A. He was a police officer before he 11:20
9 became sergeant. 11:20
10 Q. Do you know when he became sergeant? 11:20
11 A. No. 11:20
12 Q. How did you find out that George 11:20
13 Hesse had begun serving as acting police chief? 11:20
14 A. After Chief Paradiso got hurt, then 11:20
15 he became the acting chief. 11:20
16 Q. Did someone tell you at that time 11:20
17 that George Hesse was acting chief? 11:20
18 A. George told me himself. 11:20
19 Q. Do you recall anything else that 11:20
20 George Hesse said to you at the time he told 11:20
21 you he was acting police chief? 11:20
22 A. No. 11:20
23 Q. Do you recall if George Hesse said 11:20
24 anything about Paradiso at the time that he 11:20
25 told you he was acting police chief? 11:20
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1 Moran
2 Q. At the time of the Halloween 11:18
3 incident, what was George Hesse's position? 11:18
4 MR. NOVIKOFF: Objection to form. 11:18
5 Foundation. 11:18
6 A. I can't recall his title. 11:18
7 Q. If you recall, at what point did 11:18
8 George Hesse begin serving as acting police 11:18
9 chief? 11:19
10 MR. NOVIKOFF: Objection to form. 11:19
11 Foundation. 11:19
12 A. After Chief Paradiso left the 11:19
13 department and then -- Chief Paradiso got hurt 11:19
14 on duty and then George took over as acting 11:19
15 police chief. 11:19
16 Q. Do you remember when Paradiso hurt 11:19
17 himself on duty? 11:19
18 MR. NOVIKOFF: Objection to form. 11:19
19 No guessing. 11:19
20 A. I can't recall the exact date when 11:19
21 he got hurt. 11:19
22 Q. What was George Hesse's position up 11:19
23 until the time that Paradiso got hurt? 11:19
24 MR. NOVIKOFF: Objection to form. 11:19
25 Foundation. 11:19
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1 Moran
2 A. No. 11:21
3 Q. Do you recall what time of day it 11:21
4 was when George Hesse told you that he was 11:21
5 acting chief? 11:21
6 MR. NOVIKOFF: Objection to form. 11:21
7 A. What time of day? 11:21
8 Q. More broadly, was it light outside? 11:21
9 MR. NOVIKOFF: Objection to form. 11:21
10 A. I don't know. 11:21
11 Q. Are you currently working at Ocean 11:21
12 Beach? 11:21
13 A. Yes. 11:21
14 Q. What job do you currently have? 11:21
15 A. Dispatcher. 11:21
16 MR. GRAFF: Rather than trying to go 11:22
17 backwards and quiz you on every position 11:22
18 and date that you had, I am actually going 11:22
19 to ask the court reporter to mark as 11:22
20 Exhibit Moran 2 a one-page document without 11:22
21 Bates number. 11:22
22 Q. Mr. Moran, is there such a thing as 11:23
23 the on season or season at the Ocean Beach 11:23
24 Police Department? 11:23
25 MR. NOVIKOFF: Objection to form. 11:23
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1 Moran
2 A. The season for employment? 11:23
3 **Q. Yes. 11:23**
4 A. Oh, what the season is for -- 11:24
5 **Q. Yes. 11:24**
6 A. Yes. 11:24
7 **Q. And what is the season? 11:24**
8 A. It's from like May, like for summer, 11:24
9 for seasonal, it's from like May to September. 11:24
10 **Q. And when you worked as dispatcher -- 11:24**
11 **strike that. 11:24**
12 **Now, as dispatcher do you work year 11:24**
13 **round? 11:24**
14 A. Just in the summertime. From May to 11:24
15 September. 11:24
16 MR. NOVIKOFF: The season. 11:24
17 A. The season. 11:24
18 **Q. What about last season, did you also 11:24**
19 **work as a police dispatcher? 11:24**
20 A. Yes. 11:24
21 MR. NOVIKOFF: So we are talking 11:24
22 about what, about the 2008 -- 11:24
23 MR. GRAFF: 2008 summer season. 11:24
24 A. Yes. 11:24
25 **Q. And during 2008 did you only work 11:24**
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1 Moran
2 MR. NOVIKOFF: That was your 11:25
3 question, right, Ari? 11:25
4 MR. GRAFF: Yes. 11:25
5 **Q. And did you apply to be a dispatcher 11:25**
6 **in the 2005 season? 11:25**
7 A. I can't recall. 11:25
8 **Q. Do you recall whether there was any 11:26**
9 **particular reason that you were not a 11:26**
10 **dispatcher that season? 11:26**
11 A. No. 11:26
12 **Q. Were you a dispatcher in the 2004 11:26**
13 **season? 11:26**
14 A. I know I had a break for like a 11:26
15 year, a break in service with the Village 11:26
16 from -- 11:26
17 MR. NOVIKOFF: You gotta answer the 11:26
18 question and then -- 11:26
19 A. I know I had a break for like a year 11:26
20 of service with the Village. Yeah, for one 11:26
21 year I had a break in service. 11:26
22 **Q. What do you mean by "break in 11:26**
23 **service"? 11:26**
24 A. I wasn't working for the Village for 11:26
25 a year, I mean, for a season. 11:26
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1 Moran
2 **during the summer season? 11:24**
3 A. Yes. 11:24
4 **Q. Were you a dispatcher in the 2007 11:24**
5 **season? 11:25**
6 A. Yes. 11:25
7 **Q. And during 2007 did you work at any 11:25**
8 **other time at Ocean Beach other than the -- 11:25**
9 A. That's it. 11:25
10 **Q. What about the 2006 season, were you 11:25**
11 **a dispatcher that season? 11:25**
12 A. Yes. 11:25
13 **Q. And during 2006 did you work at any 11:25**
14 **other time of year other than the season? 11:25**
15 A. That's it. 11:25
16 **Q. What about 2005, were you a police 11:25**
17 **dispatcher the summer of 2005? 11:25**
18 A. Can I see -- 11:25
19 MR. NOVIKOFF: See what, this? You 11:25
20 want to look at number 1? 11:25
21 THE WITNESS: Yes. 11:25
22 MR. NOVIKOFF: This is dated March 11:25
23 11, 2006. So the question is were you a 11:25
24 dispatcher for the 2005 season? 11:25
25 A. No. 11:25
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1 Moran
2 **Q. Did you ever work for the Village as 11:26**
3 **a part-time employee? 11:26**
4 MR. NOVIKOFF: As opposed to 11:26
5 being -- working as a seasonal employee. 11:26
6 MR. GRAFF: Yes. 11:27
7 A. No. Just summertime, seasonal. 11:27
8 **Q. Do you know whether any of the 11:27**
9 **plaintiffs worked at Ocean Beach other than 11:27**
10 **during a summer season? 11:27**
11 MR. NOVIKOFF: Objection to form and 11:27
12 foundation. 11:27
13 You can answer. 11:27
14 A. Yes. 11:27
15 **Q. And which plaintiffs worked other 11:27**
16 **than during the summer season? 11:27**
17 A. Well, depending on the schedule, if 11:27
18 George needed coverage, whatever cops were 11:27
19 available like to work a shift, they would 11:27
20 work. In the wintertime, summertime, if they 11:27
21 needed the coverage, they would be on the 11:27
22 schedule. 11:27
23 **Q. Who -- 11:27**
24 MR. NOVIKOFF: I am going to strike 11:27
25 that answer as not responsive. 11:27
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<p style="text-align: right;">Page 50</p> <p>1 Moran</p> <p>2 MR. GRAFF: It's your witness. 11:27</p> <p>3 MR. NOVIKOFF: Even though it's my 11:27</p> <p>4 witness. I know. 11:27</p> <p>5 MR. GRAFF: I thought it was 11:28</p> <p>6 responsive. 11:28</p> <p>7 MR. NOVIKOFF: I don't think so. 11:28</p> <p>8 THE WITNESS: Could I talk to him a 11:28</p> <p>9 second? 11:28</p> <p>10 MR. GRAFF: Yes. 11:28</p> <p>11 MR. NOVIKOFF: Sure. 11:28</p> <p>12 MR. GRAFF: Let's go off the record. 11:28</p> <p>13 (Recess was taken from 11:28 to 11:28</p> <p>14 11:29.) 11:28</p> <p>15 MR. NOVIKOFF: I think the witness 11:29</p> <p>16 may want to just clarify that last answer. 11:29</p> <p>17 If you want to give him the opportunity, 11:29</p> <p>18 great. If not, I will do it on my 11:29</p> <p>19 questioning. 11:29</p> <p>20 Q. Like I said, Mr. Moran, if you would 11:29</p> <p>21 ever like to clarify a response, that's fine. 11:29</p> <p>22 A. The last question you said about 11:29</p> <p>23 them being, I guess -- can you repeat the last 11:29</p> <p>24 question. 11:29</p> <p>25 (Record read.) 11:29</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 51</p> <p>1 Moran</p> <p>2 A. It was the plaintiffs, but for 11:29</p> <p>3 scheduling I meant to say Chief Paradiso, 11:29</p> <p>4 because George was a sergeant at the time, so 11:29</p> <p>5 Paradiso was doing the schedule. 11:29</p> <p>6 Q. So was the April 2006 summer season 11:29</p> <p>7 the first season Paradiso was out and George 11:30</p> <p>8 Hesse was acting chief? 11:30</p> <p>9 MR. NOVIKOFF: I am going to object 11:30</p> <p>10 to the form of the question. 11:30</p> <p>11 A. Yes. 11:30</p> <p>12 Q. Other than dispatcher, have you had 11:30</p> <p>13 any other positions at Ocean Beach ever? 11:30</p> <p>14 A. Yes. 11:30</p> <p>15 MR. NOVIKOFF: Objection to the form 11:30</p> <p>16 of the question. 11:30</p> <p>17 You can answer. 11:30</p> <p>18 A. Yes, I did. 11:30</p> <p>19 Q. What other positions have you had? 11:30</p> <p>20 A. I was a beach cleaner and also a 11:30</p> <p>21 dockmaster. 11:30</p> <p>22 Q. When were you a dockmaster? 11:30</p> <p>23 A. From like 1999 to 2002, 2001. 11:30</p> <p>24 Q. As a dockmaster were you only 11:31</p> <p>25 working during the summer season? 11:31</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 52</p> <p>1 Moran</p> <p>2 A. Yes. 11:31</p> <p>3 Q. Who was your direct supervisor when 11:31</p> <p>4 you were a dockmaster? 11:31</p> <p>5 A. George Hesse. 11:31</p> <p>6 Q. Was Ed Paradiso your direct 11:31</p> <p>7 supervisor as dockmaster? 11:31</p> <p>8 A. Sorry. Chief Paradiso was the chief 11:31</p> <p>9 who was in charge and George was the sergeant, 11:31</p> <p>10 but I worked mostly day tours and Paradiso was 11:31</p> <p>11 my direct supervisor for the day shift. 11:31</p> <p>12 Q. So when you worked on the day shift 11:31</p> <p>13 as a dockmaster, Hesse was your direct 11:31</p> <p>14 supervisor? 11:31</p> <p>15 A. No. Let me strike. Paradiso was. 11:31</p> <p>16 When I worked on the day shift, Chief Paradiso 11:31</p> <p>17 was the boss on the day tours. 11:32</p> <p>18 Q. Did you ever work night tours as 11:32</p> <p>19 dockmaster? 11:32</p> <p>20 A. Yes. 11:32</p> <p>21 Q. And when you worked night tours, was 11:32</p> <p>22 George Hesse your supervisor? 11:32</p> <p>23 A. Yes. 11:32</p> <p>24 Q. What were your duties as a 11:32</p> <p>25 dockmaster? 11:32</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 53</p> <p>1 Moran</p> <p>2 A. To patrol the Village-owned marinas, 11:32</p> <p>3 to make sure there was no vandalism on the 11:32</p> <p>4 boats, and if anything happened would call 11:32</p> <p>5 dispatch to have an officer come to take care 11:32</p> <p>6 of the situation, because we didn't have police 11:32</p> <p>7 powers, so we were just like -- we were 11:32</p> <p>8 civilians, so if we saw something, we could 11:32</p> <p>9 call it in and have an officer on duty come to 11:32</p> <p>10 the dock to check it out. 11:32</p> <p>11 Q. I think I missed a word in your 11:32</p> <p>12 answer. You said you were looking to see for 11:32</p> <p>13 something in the boats? 11:33</p> <p>14 A. Yeah, for vandalism on the boats. 11:33</p> <p>15 And if something happened, we would then call 11:33</p> <p>16 dispatch, the desk, and have an officer who was 11:33</p> <p>17 in the area come to check it out. 11:33</p> <p>18 Q. Can you name any other people, if 11:33</p> <p>19 any existed, who were dock masters at the time 11:33</p> <p>20 you were dockmaster? 11:33</p> <p>21 A. Yes. Byron Chantot (phonetic). 11:33</p> <p>22 Kevin Butler. Hirsch. That's what I can 11:33</p> <p>23 recall right now. 11:34</p> <p>24 Q. How did you go about getting the 11:34</p> <p>25 position of dockmaster? 11:34</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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1 **Moran**
2 A. I applied to the Village. 11:34
3 **Q. Was there a written application?** 11:34
4 A. Yes. 11:34
5 **Q. And do you recall if you sent it to** 11:34
6 **any particular office or individual at the** 11:34
7 **Village?** 11:34
8 A. The Village office. 11:34
9 **Q. And what happened next after you** 11:34
10 **sent it?** 11:34
11 A. I applied for it, sent it to the 11:34
12 Village office, and then got hired. 11:34
13 **Q. Did somebody call you about that** 11:35
14 **application before you had sent it to the** 11:35
15 **Village?** 11:35
16 A. I know Chief Paradiso when I applied 11:35
17 called up and said that he got the application 11:35
18 and I could come and start at a particular 11:35
19 time. 11:35
20 **Q. And what about the position of** 11:35
21 **police dispatcher, how did you go about** 11:35
22 **obtaining that position?** 11:35
23 A. I asked George if there was any 11:35
24 openings for a dispatcher for the summertime. 11:35
25 He said there were. I then filled out my 11:35
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1 **Moran**
2 application for the Village, sent it in and 11:35
3 that was it. 11:35
4 **Q. Did George Hesse ever interview you** 11:35
5 **for that position?** 11:36
6 A. No. 11:36
7 **Q. What were your duties as a** 11:36
8 **dispatcher?** 11:36
9 A. Would take calls from Village 11:36
10 residents for whatever the complaint would be, 11:36
11 get down the information, send one of the 11:36
12 officers on duty, whoever was in that area, and 11:36
13 then would have relayed the information and 11:36
14 then the officer would go to the call, write 11:36
15 out a field report or write out a summons. 11:36
16 Depending what the officer did, he would write 11:36
17 a field report or if he wrote a summons against 11:36
18 one of the Village codes, and come back to the 11:36
19 police station and then put it in a computer 11:36
20 for data entry and then put it in the blotter. 11:36
21 **Q. And where would you physically be** 11:37
22 **sitting or located when you were working as a** 11:37
23 **dispatcher?** 11:37
24 A. Front desk at the police station, up 11:37
25 front. 11:37
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1 **Moran**
2 **Q. And when calls would come in, would** 11:37
3 **that be on a land line telephone?** 11:37
4 A. Yes, land line phone. 11:37
5 **Q. And how would you contact the** 11:37
6 **officers on duty?** 11:37
7 A. Via radio. Police Department radio. 11:37
8 **Q. Did you have any training in** 11:37
9 **connection with the position of dispatcher?** 11:37
10 A. Just on-the-job training. 11:37
11 **Q. Is there such a thing as radio** 11:37
12 **codes?** 11:37
13 A. Yes. 11:37
14 **Q. What are those radio codes?** 11:37
15 A. Suffolk County police ten codes. 11:37
16 **Q. And have those Suffolk county** 11:37
17 **police ten codes been the same for the entire** 11:37
18 **length of your service as a dispatcher?** 11:38
19 A. Yes. 11:38
20 **Q. Are they still in use today?** 11:38
21 A. Yes. 11:38
22 **Q. Have you ever heard an officer or a** 11:38
23 **dispatcher or an officer -- strike that.** 11:38
24 **Are the ten codes something that the** 11:38
25 **dispatcher alone uses or do officers in the** 11:38
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1 **Moran**
2 **field also use the ten codes?** 11:38
3 MR. NOVIKOFF: Objection to form. 11:38
4 You can answer. 11:38
5 A. Yeah, well, we both use it, officers 11:38
6 and dispatchers. It's a universal ten code. 11:38
7 So the officers and dispatchers would be using 11:38
8 the same codes. 11:38
9 **Q. And that's still the case today?** 11:38
10 A. Yes. 11:38
11 **Q. Was there ever a period of time when** 11:38
12 **you were working simultaneously as a dispatcher** 11:38
13 **and as a dockmaster?** 11:38
14 MR. NOVIKOFF: Objection to form. 11:38
15 A. Yes. When I first started as a 11:38
16 dockmaster, some nights would be pretty busy, 11:39
17 so they would have one of us take the desk as a 11:39
18 dockmaster and have the officer who was at the 11:39
19 desk go out in the field to free up an officer 11:39
20 and we would take the desk. 11:39
21 **Q. And how often would that happen?** 11:39
22 A. It would all depend on the night. 11:39
23 Some nights not on, some nights on. It all 11:39
24 depended how busy it was on a given weekend. 11:39
25 **Q. And would that be the case from when** 11:39
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1 **Moran**
2 **you first started working as a dockmaster until 11:39**
3 **you became officially a dispatcher? 11:39**
4 A. Yes. 11:39
5 **Q. Who was your supervisor at Ocean 11:39**
6 **Beach as a beach cleaner? 11:39**
7 MR. NOVIKOFF: Objection to form. 11:39
8 A. John Bucksband. 11:39
9 **Q. Was anyone else your supervisor as a 11:40**
10 **beach cleaner? 11:40**
11 A. That was it. He was the one. 11:40
12 **Q. Can you name, please, as many as you 11:40**
13 **can recall, other individuals who worked as 11:40**
14 **dispatchers during the same period that you 11:40**
15 **worked as a dispatcher? 11:40**
16 MR. NOVIKOFF: Objection. Now 11:40
17 that's broad, because if I recall the 11:40
18 witness correctly, he said that when he 11:40
19 started, which I think was 1999, but I'm 11:40
20 not sure, he was a dockmaster, but he also 11:40
21 at certain times worked as a dispatcher and 11:40
22 then at some other point in time, which I 11:40
23 don't think you have quite defined yet, he 11:40
24 became a dispatcher. 11:40
25 **Q. Let's define that. At what point 11:40**
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1 **Moran**
2 worked. 11:44
3 **Q. Did you work at Ocean Beach in 2005, 11:44**
4 **the year before that meeting? 11:44**
5 MR. NOVIKOFF: The season; right? 11:44
6 MR. GRAFF: The season. 11:44
7 MR. NOVIKOFF: You already asked 11:44
8 that question, so I am going to object on 11:44
9 it being asked and answered, but you can go 11:44
10 ahead. 11:44
11 A. I can't recall right now. 11:44
12 **Q. Do you know whether Pat Cherry ever 11:44**
13 **had any positions at Ocean Beach other than 11:44**
14 **dispatcher? 11:44**
15 A. Senior or junior Pat Cherry? 11:44
16 **Q. Senior. 11:44**
17 A. No. 11:44
18 **Q. What about Pat Cherry Junior, do you 11:44**
19 **know if he ever had any positions at the OBPD? 11:44**
20 A. Yes, he was a dockmaster for a time. 11:44
21 Actually, when I was a dockmaster he was a 11:44
22 dockmaster as well, and then he is now with the 11:44
23 New York City Police Department. 11:44
24 **Q. Do you know somebody by the name of 11:44**
25 **Paul Trosko? 11:45**
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1 **Moran**
2 **did you start working as a dispatcher formally? 11:40**
3 A. 2006 when the -- sorry. 2005, the 11:40
4 summer before the meeting in question. 11:41
5 **Q. Okay. So from summer 2005 to the 11:41**
6 **present, could you please list as many other 11:41**
7 **dispatchers at the Ocean Beach Police 11:41**
8 **Department as you can remember? 11:41**
9 A. Myself, Pat Cherry, Hanni, Stu, Bill 11:41
10 and Jack. 11:42
11 MR. NOVIKOFF: Are you done with 11:42
12 your answer? 11:42
13 THE WITNESS: Yes. 11:42
14 MR. NOVIKOFF: Two minutes. 11:42
15 MR. GRAFF: Yes, we can go off the 11:42
16 record. 11:42
17 (Recess was taken from 11:42 to 11:42
18 11:43.) 11:42
19 MR. NOVIKOFF: I think, again, 11:42
20 Mr. Moran wants to -- would like the 11:43
21 opportunity to clarify the prior answer as 11:43
22 to the timing, time frame. 11:43
23 A. Because I know for a fact I started 11:43
24 as dispatcher in 2006 as a dispatcher for 11:43
25 working. From that meeting forward is when I 11:43
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1 **Moran**
2 A. Yes. 11:45
3 **Q. And who do you know him to be? 11:45**
4 A. He was a dockmaster when I was 11:45
5 dockmaster and then he went to the academy, 11:45
6 became a cop with the Village for a while and 11:45
7 he became full-time and at the present time he 11:45
8 is with Nassau County PD. 11:45
9 **Q. Do you know in what city or Village 11:45**
10 **Paul Trosko lived at the time he was a 11:45**
11 **dispatcher? Let me reask that. 11:45**
12 **Do you know if Paul Trosko currently 11:45**
13 **lives in Ocean Beach? 11:45**
14 A. I don't -- no idea. 11:45
15 **Q. Do you know if Paul Trosko has ever 11:45**
16 **lived in Ocean Beach? 11:45**
17 MR. NOVIKOFF: Objection to the 11:45
18 form. 11:45
19 A. Not to my knowledge. 11:45
20 **Q. Do you know if George Hesse lives in 11:45**
21 **Ocean Beach? 11:45**
22 A. No. 11:46
23 MR. NOVIKOFF: Objection to form. 11:46
24 **Q. Do you know where George Hesse 11:46**
25 **lives, what town or county? 11:46**
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1 **Moran**
2 A. I know he is in Suffolk, Suffolk 11:46
3 County. West Islip, I believe. 11:46
4 **Q. Do you know whether George Hesse 11:46**
5 **ever lived in Ocean Beach? 11:46**
6 MR. NOVIKOFF: Objection to form. 11:46
7 A. I can't recall, no. 11:46
8 **Q. Do you know somebody by the name of 11:46**
9 **Marissa Wykoff? 11:46**
10 A. Yes. 11:46
11 **Q. And who do you know her to be? 11:46**
12 A. She -- I grew up with her at the 11:46
13 beach and she also was a dispatcher too when I 11:46
14 was a dockmaster. She now works for the New 11:46
15 York City Police Department. 11:46
16 **Q. Do you recall if Pat cherry was one 11:46**
17 **of the people who was outside of the boathouse 11:46**
18 **at the time that the plaintiffs went in at the 11:46**
19 **April 2nd, 2006 meeting? 11:46**
20 MR. NOVIKOFF: Objection. Asked and 11:46
21 answered. 11:46
22 A. No, I can't recall that. 11:47
23 **Q. Do you know if Paul Trosko was one 11:47**
24 **of the people who was there at that time? 11:47**
25 MR. NOVIKOFF: Same objection. You 11:47
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1 Moran
2 already asked for a space in the transcript 11:47
3 and if he recalls, so which one is it, Ari? 11:47
4 MR. GRAFF: Both a space in the 11:47
5 transcript, but there is these specific 11:47
6 names that I would like to confirm with 11:47
7 him. 11:47
8 MR. NOVIKOFF: Objection. 11:47
9 A. I can't recall. 11:47
10 **Q. You mentioned a moment ago that you 11:47**
11 **grew up in Ocean Beach? 11:47**
12 A. Yes, sir. 11:47
13 **Q. Is that where your parents live? 11:47**
14 A. Yes, well, for the season. 11:47
15 **Q. And would you only -- when you were 11:47**
16 **growing up, would you live in Ocean Beach only 11:47**
17 **for the summer season? 11:47**
18 A. Correct. 11:47
19 **Q. Where would you live -- 11:47**
20 A. In Westchester. 11:47
21 **Q. And when you would live in Ocean 11:47**
22 **Beach for the summer season, would your parents 11:47**
23 **work at Ocean Beach? 11:47**
24 A. No. 11:47
25 **Q. Have either of your parents ever 11:47**
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1 **Moran**
2 **worked in Ocean Beach? 11:48**
3 A. My dad used to be a trustee. 11:48
4 **Q. And what is his name? 11:48**
5 A. John. 11:48
6 **Q. John Moran? 11:48**
7 A. Moran. 11:48
8 **Q. And during what period of time was 11:48**
9 **he a trustee? 11:48**
10 A. '90 to 1992. 11:48
11 **Q. Did you work in Ocean Beach at that 11:48**
12 **time? 11:48**
13 A. Did I? Yes. 11:48
14 **Q. What position did you have? 11:48**
15 A. I really can't recall. 11:48
16 **Q. Do you recall if your father, 11:48**
17 **Mr. John Moran, was elected to serve as a 11:48**
18 **trustee? 11:48**
19 A. Yes. 11:48
20 **Q. Do you recall if he ran against 11:48**
21 **anyone? 11:48**
22 A. I know he did, but I forgot who ran. 11:48
23 He ran in the election, but I forgot who 11:48
24 actually ran against -- opposed him for the 11:48
25 position. 11:48
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1 Moran
2 **Q. And did he run in an election after 11:48**
3 **being elected the first time? 11:49**
4 A. Oh, for a second time? 11:49
5 **Q. Yes. 11:49**
6 A. No. 11:49
7 **Q. And was Marissa Wykoff when you were 11:49**
8 **growing up also a seasonal resident? 11:49**
9 A. She lived there year round. 11:49
10 **Q. And do you know if her parents held 11:49**
11 **any employment at Ocean Beach? 11:49**
12 A. Her mom is a -- the post master and 11:49
13 her dad works for the school as a teacher. 11:49
14 **Q. And what's her mom's name? 11:49**
15 A. Dale Wykoff. 11:49
16 **Q. D-A-L-E? 11:49**
17 A. Yes. 11:49
18 **Q. And her father's name? 11:49**
19 A. Doug. 11:49
20 **Q. Doug Wykoff? 11:49**
21 A. Yes. 11:49
22 **Q. When did you first meet Kevin Lamm? 11:49**
23 A. Back in when I first started as a 11:49
24 dockmaster. '99. 11:50
25 **Q. Did you ever have any conflicts 11:50**
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1 **Moran**
2 **or -- 11:50**
3 A. No. 11:50
4 MR. NOVIKOFF: Let him finish the 11:50
5 question. 11:50
6 **Q. Conflicts or other problems with 11:50**
7 **Kevin Lamm? 11:50**
8 MR. NOVIKOFF: Objection to form. 11:50
9 A. No. 11:50
10 **Q. When did you first meet Frank 11:50**
11 **Fiorillo, who is here today? 11:50**
12 A. His first summer working for the 11:50
13 Village. 11:50
14 **Q. Did you ever have any conflicts with 11:50**
15 **Mr. Fiorillo? 11:50**
16 MR. NOVIKOFF: Same objection. 11:50
17 A. No. 11:50
18 **Q. When did you first meet Joe Nofi? 11:50**
19 A. His first summer working with the 11:50
20 Village when I was dock master. 11:50
21 **Q. Did you ever have any conflicts with 11:50**
22 **Joe Nofi? 11:50**
23 MR. NOVIKOFF: Objection. 11:50
24 A. No. 11:50
25 **Q. What about Tom Snyder, when did you 11:50**
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1 **Moran**
2 A. No, not to my knowledge. 11:51
3 **Q. What about conflicts in general 11:51**
4 **between Kevin Lamm and others? 11:51**
5 A. No. 11:51
6 **Q. What about Frank Fiorillo, did 11:51**
7 **anyone ever communicate to you that he had 11:51**
8 **conflicts with other officers or that other 11:51**
9 **officers had conflicts with him? 11:52**
10 MR. NOVIKOFF: Note my objection. 11:52
11 A. No. 11:52
12 **Q. What about conflicts in general 11:52**
13 **involving Mr. Fiorillo? 11:52**
14 MR. NOVIKOFF: Note my objection. 11:52
15 A. No. 11:52
16 **Q. And Joe Nofi, did anyone ever 11:52**
17 **communicate to you that other officers had 11:52**
18 **conflicts with Joe? 11:52**
19 MR. NOVIKOFF: Note my objection. 11:52
20 A. No. 11:52
21 **Q. What about other people generally, 11:52**
22 **not just officers, did anyone ever communicate 11:52**
23 **to you that Joe Nofi had conflicts with anyone 11:52**
24 **in general? 11:52**
25 MR. NOVIKOFF: Note my objection. 11:52
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1 **Moran**
2 **first meet him? 11:50**
3 A. When I was a dockmaster. 11:50
4 **Q. Did you ever have any conflicts with 11:50**
5 **Tom Snyder? 11:51**
6 A. No. 11:51
7 **Q. What about Ed Carter, when did you 11:51**
8 **first meet him? 11:51**
9 A. Same, when I was a dockmaster. 11:51
10 **Q. Did you ever have any conflicts with 11:51**
11 **Ed Carter? 11:51**
12 A. No. 11:51
13 **Q. Do you know whether Kevin -- did 11:51**
14 **anyone ever communicate to you that Kevin Lamm 11:51**
15 **had conflicts with anyone else at the Ocean 11:51**
16 **Beach Police Department? 11:51**
17 MR. NOVIKOFF: Objection to form. 11:51
18 You can answer. 11:51
19 A. Conflicts as in -- can you rephrase 11:51
20 the question. 11:51
21 **Q. Well, what do you understand the 11:51**
22 **word "conflicts" to mean? 11:51**
23 A. You mean conflicts with other 11:51
24 officers or conflicts in general? 11:51
25 **Q. Conflicts with other officers. 11:51**
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1 **Moran**
2 A. No. 11:52
3 **Q. And Tom Snyder, did anyone ever 11:52**
4 **communicate to you that he had conflicts with 11:52**
5 **any other officers at Ocean Beach? 11:52**
6 MR. NOVIKOFF: Objection. 11:52
7 A. No. 11:52
8 **Q. And as far as conflicts in general 11:52**
9 **involving Tom Snyder, has anyone ever 11:52**
10 **communicated anything of that nature to you? 11:52**
11 MR. NOVIKOFF: Objection. 11:52
12 A. No. 11:52
13 **Q. And finally Ed Carter, did anyone 11:52**
14 **ever communicate to you that he had conflicts 11:52**
15 **with other officers? 11:52**
16 MR. NOVIKOFF: Objection. 11:52
17 A. No. 11:52
18 **Q. And what about conflicts in general? 11:52**
19 A. No. 11:53
20 **Q. Did anyone ever communicate to you 11:53**
21 **that Richie Bosetti had conflicts with anyone 11:53**
22 **in general? 11:53**
23 MR. NOVIKOFF: Objection. 11:53
24 A. No. 11:53
25 **Q. And did anyone ever communicate to 11:53**
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<p>1 Moran</p> <p>2 you that Gary Bosetti had conflicts with anyone 11:53</p> <p>3 in general? 11:53</p> <p>4 MR. NOVIKOFF: Objection. 11:53</p> <p>5 A. No. 11:53</p> <p>6 Q. Do you know who Ty Bacon is? 11:53</p> <p>7 A. Yes. 11:53</p> <p>8 Q. Who do you know him to be? 11:53</p> <p>9 A. He is a police officer with the 11:53</p> <p>10 Ocean Beach Police Department. 11:53</p> <p>11 Q. When did you first meet Ty Bacon? 11:53</p> <p>12 A. When I was a dockmaster. 11:53</p> <p>13 Q. Did anyone ever communicate to you 11:53</p> <p>14 that Ty Bacon had conflicts with anyone else at 11:53</p> <p>15 the OBPD? 11:53</p> <p>16 MR. NOVIKOFF: Objection. 11:53</p> <p>17 A. No. 11:53</p> <p>18 Q. Did you ever apply for any other 11:53</p> <p>19 positions at Ocean Beach other than beach 11:53</p> <p>20 cleaner, dockmaster or dispatcher? 11:54</p> <p>21 A. I was a Village dockmaster for -- at 11:54</p> <p>22 one point in time with the Village. 11:54</p> <p>23 Q. What's the difference, if you could 11:54</p> <p>24 explain, between the dockmaster and a Village 11:54</p> <p>25 dockmaster? 11:54</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Moran</p> <p>2 A. Police Department dockmaster would 11:54</p> <p>3 have the marina set up as like two marinas, 11:54</p> <p>4 east and a west, so the Police Department 11:54</p> <p>5 dockmaster would basically for the seasonal 11:54</p> <p>6 slip, only homeowners' boats, would patrol that 11:54</p> <p>7 area, make sure there is no vandalism on those 11:54</p> <p>8 boats. What a Village dock master does is they 11:54</p> <p>9 have slip rentals, daily and weekly, so what 11:54</p> <p>10 the Village dock master would do is basically 11:54</p> <p>11 dock boats per day and then take -- you know, 11:54</p> <p>12 give them receipts and collect money for the 11:54</p> <p>13 slip rentals. 11:55</p> <p>14 Q. Did you ever work as a fire marshal 11:55</p> <p>15 at Ocean Beach? 11:55</p> <p>16 A. No. 11:55</p> <p>17 Q. Did you ever apply to work as a fire 11:55</p> <p>18 marshal at Ocean Beach? 11:55</p> <p>19 A. I sent my resume in to Mayor 11:55</p> <p>20 Loeffler at one point for if there was any 11:55</p> <p>21 positions for fire marshal. 11:55</p> <p>22 Q. Who was your supervisor as Village 11:55</p> <p>23 dockmaster? 11:55</p> <p>24 MR. NOVIKOFF: Objection to form. 11:55</p> <p>25 A. Kerry Rabino. 11:55</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 Moran</p> <p>2 Q. Did you ever learn from any source 11:55</p> <p>3 if there were any problems at the Ocean Beach 11:56</p> <p>4 department as far as Civil Service issues? 11:56</p> <p>5 MR. NOVIKOFF: Objection to form. 11:56</p> <p>6 A. No. 11:56</p> <p>7 Q. Do you know who, if anyone, at Ocean 11:56</p> <p>8 Beach Police Department was responsible for 11:56</p> <p>9 Civil Service matters for police officers? 11:56</p> <p>10 MR. NOVIKOFF: Objection to form. 11:56</p> <p>11 Foundation. 11:56</p> <p>12 A. Repeat the question. 11:56</p> <p>13 Q. Do you know if there was anyone at 11:56</p> <p>14 the Ocean Beach Police Department who was 11:56</p> <p>15 responsible for Civil Service-related issues? 11:56</p> <p>16 MR. NOVIKOFF: Objection. 11:56</p> <p>17 A. George Hesse. 11:56</p> <p>18 Q. And do you know at what point he 11:56</p> <p>19 would be, again, exercising that 11:56</p> <p>20 responsibility? 11:56</p> <p>21 A. No. 11:56</p> <p>22 Q. Do you know if George Hesse had 11:56</p> <p>23 responsibility for Civil Service issues before 11:56</p> <p>24 Ed Paradiso was injured? 11:56</p> <p>25 MR. NOVIKOFF: Objection. 11:56</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Moran</p> <p>2 A. I have no idea. 11:56</p> <p>3 Q. As dispatcher do you have a Civil 11:56</p> <p>4 Service classification that you are aware of? 11:56</p> <p>5 A. No, not that I can recall. 11:56</p> <p>6 Q. What is your current position other 11:57</p> <p>7 than dockmaster, if you have one? 11:57</p> <p>8 MR. NOVIKOFF: Wait a minute. 11:57</p> <p>9 Position at Ocean Beach? 11:57</p> <p>10 MR. GRAFF: No. 11:57</p> <p>11 Q. Other than dockmaster, do you have 11:57</p> <p>12 any other employment? 11:57</p> <p>13 MR. NOVIKOFF: Does he have any 11:57</p> <p>14 employment other than at Ocean Beach? 11:57</p> <p>15 MR. GRAFF: Yes. 11:57</p> <p>16 Q. Other than in your capacity as a 11:57</p> <p>17 dispatcher at Ocean Beach, do you have any 11:57</p> <p>18 other employment? 11:57</p> <p>19 A. Yes, I do. 11:57</p> <p>20 Q. And what is that employment? 11:57</p> <p>21 A. I work for the New York City Fire 11:57</p> <p>22 Department. 11:57</p> <p>23 Q. What is your position with the Fire 11:57</p> <p>24 Department? 11:57</p> <p>25 A. Supervisor and fire inspector. 11:57</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

1 Moran
2 **Q. And how long have you held that position?** 11:57
3 11:57
4 A. I have been with the department a 11:57
5 total of six years. 11:57
6 **Q. And during the summer seasons, like this season you are working at Ocean Beach, do you still work as a fire inspector?** 11:57
7 11:57
8 A. Yes. 11:57
9 **Q. Is your position with the Fire Department a part-time position?** 11:57
10 11:57
11 A. Full-time. 11:57
12 **Q. Do you continue to work full-time hours during the summer season when you are also at Ocean Beach?** 11:58
13 11:58
14 A. Yes. 11:58
15 **Q. Is your position as dispatcher at Ocean Beach a part-time position?** 11:58
16 11:58
17 MR. NOVIKOFF: Objection. 11:58
18 A. Seasonal. 11:58
19 **Q. During the season as dispatcher, how many hours do you work in a week?** 11:58
20 11:58
21 MR. NOVIKOFF: Objection. Time 11:58
22 frame. This season, last season? 11:58
23 **Q. Let's talk this season.** 11:58
24 11:58
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1 Moran
2 (Recess was taken from 11:59 to 11:59
3 12:07.) 11:59
4 MR. NOVIKOFF: You want the witness 12:07
5 to look at Moran Exhibit 2 to see if he 12:07
6 recognizes it? 12:07
7 MR. GRAFF: Yes, both pages, please. 12:07
8 (Document review.) 12:07
9 A. Okay. 12:07
10 **Q. And do you recognize the document?** 12:07
11 12:07
12 A. Yes. 12:07
13 **Q. What is the first page of the document?** 12:07
14 12:07
15 A. Cover letter to Mayor Loeffler for 12:07
16 the position of fire marshal. 12:07
17 **Q. And what is the second page of the document?** 12:07
18 12:08
19 A. A copy of my resume. 12:08
20 **Q. Did you draft the first page of the document?** 12:08
21 12:08
22 A. Yes. 12:08
23 **Q. Did you draft the second page?** 12:08
24 12:08
25 A. Yes. 12:08
26 **Q. Did you ever sign a version of the first page of the document? If you will note** 12:08
27 12:08
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1 Moran
2 A. This season, eight hours usually on 11:58
3 a Saturday. 11:58
4 **Q. So only one day a week?** 11:58
5 11:58
6 A. One day a week. 11:58
7 **Q. And what about the 2006 season?** 11:58
8 11:58
9 A. One day a week. 11:58
10 MR. GRAFF: I am going to ask the 11:58
11 court reporter to mark as Exhibit Moran 2, 11:58
12 which is, I believe, the cover letter and 11:58
13 resume that you sent to Mayor Loeffler, a 11:58
14 two-page document bearing Bates numbers 11:58
15 6307 to 6308. 11:59
16 (Moran Exhibit 2, letter dated 11:59
17 August 21, 2006, Bates stamped 6307 and 11:59
18 6308, marked for identification.) 11:59
19 **Q. Mr. Moran, when your counsel has had a chance to review his copy and the marked copy of the exhibit, if you could please take a moment to look at the document and tell me if you recognize it.** 11:59
20 11:59
21 A. Can I take two minutes to go to the 11:59
22 bathroom. 11:59
23 MR. GRAFF: Yes, let's take a brief 11:59
24 break. 11:59
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1 Moran
2 **at the bottom, there is a typewritten signature.** 12:08
3 12:08
4 A. Yes. 12:08
5 MR. NOVIKOFF: It's a typed name. 12:08
6 There is no signature on the document. 12:08
7 MR. GRAFF: Yes. 12:08
8 A. This document, no. 12:08
9 **Q. On what computer did you type this first page?** 12:08
10 12:08
11 A. My own computer. 12:08
12 **Q. And is your home address the address listed in the top right-hand corner?** 12:08
13 12:08
14 A. Yes. 12:08
15 **Q. Did you ever receive any response from Mayor Loeffler after sending this document?** 12:08
16 12:08
17 A. Yes. 12:08
18 **Q. And how did he respond?** 12:08
19 12:08
20 A. Via telephone. 12:08
21 **Q. And what did he say to you when he called?** 12:09
22 12:09
23 A. He said that the position -- what he 12:09
24 had in mind and what I had in mind were two 12:09
25 different things, so after the fact of this 12:09
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1 Moran
2 they actually hired a person full-time to do 12:09
3 the same fire marshal, building inspector, 12:09
4 because it would be too much work. For what he 12:09
5 wanted to do and what I could do would be too 12:09
6 much work for a part-time position. 12:09
7 **Q. And did you agree with his 12:09**
8 **explanation of that? 12:09**
9 A. Yes. That was fine. 12:09
10 **Q. On the second page of the document, 12:09**
11 **at what computer did you create the second 12:09**
12 **page? 12:09**
13 A. My house. My laptop. 12:09
14 **Q. And did you create the second page 12:09**
15 **specifically in connection with the fire 12:09**
16 **marshal position at Ocean Beach? 12:09**
17 A. No. 12:09
18 **Q. When did you first create the 12:09**
19 **document? 12:09**
20 A. I can't recall when. 12:09
21 **Q. Did you update the document at all 12:10**
22 **in connection with the copy that you sent with 12:10**
23 **this cover letter on August 21, '06? 12:10**
24 A. As of today or after? 12:10
25 **Q. When you were putting together the 12:10**
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1 Moran
2 **two pages that are marked as Moran 2, did you 12:10**
3 **make any changes to the copy that you already 12:10**
4 **had of the second page? 12:10**
5 A. No. 12:10
6 **Q. And if you could take a moment to 12:10**
7 **look specifically at the second page, your 12:10**
8 **resume, when you drafted this did you intend it 12:10**
9 **to be an accurate statement of what it was 12:10**
10 **setting forth? 12:10**
11 MR. NOVIKOFF: Objection. 12:10
12 A. Yes. 12:10
13 **Q. And as you sit here today, is it 12:10**
14 **accurate as best you can determine? 12:10**
15 MR. NOVIKOFF: Objection. 12:10
16 A. Yes. 12:10
17 **Q. Are there any things, any items on 12:10**
18 **the resume that are not accurate? 12:11**
19 MR. NOVIKOFF: Objection. Asked and 12:11
20 answered. If you need to look at the whole 12:11
21 thing, go ahead. 12:11
22 A. No. 12:11
23 MR. NOVIKOFF: The question you 12:11
24 asked him was is there anything that is on 12:11
25 this resume that is inaccurate; right? 12:11
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1 Moran
2 MR. GRAFF: Yes. 12:11
3 MR. NOVIKOFF: Okay. The answer was 12:11
4 no. 12:11
5 **Q. If you would look the second bolded 12:11**
6 **section in experience, 2006 to present, 12:11**
7 **dispatcher? 12:11**
8 A. Yes. 12:11
9 **Q. And in the description the last full 12:11**
10 **sentence states "using a computer to conduct 12:11**
11 **data entry, which include incident reports, 12:11**
12 **summonses issued and obtain registration and 12:11**
13 **warrant information." Is that an accurate 12:11**
14 **statement of your duties as a dispatcher? 12:11**
15 A. Yes. 12:11
16 **Q. Did you exercise any of those duties 12:11**
17 **at any point when you were a dockmaster? 12:12**
18 MR. NOVIKOFF: You mean when he was 12:12
19 a dockmaster or when someone asked him to 12:12
20 cover the dispatcher desk? 12:12
21 MR. GRAFF: When he was officially a 12:12
22 dockmaster, did he ever cover any of these 12:12
23 duties of a dispatcher. 12:12
24 MR. NOVIKOFF: Well, he has already 12:12
25 answered that when he was a dockmaster, 12:12
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1 Moran
2 there was occasions when someone asked him 12:12
3 to be a dispatcher. 12:12
4 MR. GRAFF: Right. I am asking if 12:12
5 on those occasions he exercised these 12:12
6 duties. 12:12
7 MR. NOVIKOFF: Now I understand. So 12:12
8 the question is when you were a dockmaster, 12:12
9 on those occasions that you were asked to 12:12
10 be a dispatcher, did you exercise any of 12:12
11 the tasks that are reflected in the resume. 12:12
12 A. Yes. 12:12
13 **Q. Is there a second page of this 12:12**
14 **resume? I know I have not put a second page in 12:12**
15 **front of you. I am asking if one exists. 12:12**
16 A. Yes, there was, for references. 12:13
17 **Q. Did you submit that page together 12:13**
18 **with this page to Mayor Loeffler? 12:13**
19 A. No. 12:13
20 **Q. Why doesn't the resume refer to your 12:13**
21 **position as a dockmaster? 12:13**
22 MR. NOVIKOFF: So the question is 12:13
23 why didn't Mr. Moran on this resume include 12:13
24 his position as a dockmaster? 12:13
25 MR. GRAFF: Yes. 12:13
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1 Moran
2 A. I felt it was irrelevant to the 12:13
3 position. 12:13
4 **Q. When you were a dockmaster on any of 12:13**
5 **the occasions when you were asked to cover as a 12:13**
6 **dispatcher, can you remember any of the people 12:13**
7 **who asked you to do that? 12:13**
8 A. I can't recall. 12:13
9 **Q. Can you recall a single person? 12:13**
10 A. No. 12:13
11 **Q. Did George Hesse, as best you can 12:14**
12 **recall, ever ask you to cover as a dispatcher 12:14**
13 **when you were a dockmaster? 12:14**
14 MR. NOVIKOFF: Objection. Asked and 12:14
15 answered. 12:14
16 A. Yes. 12:14
17 **Q. Did Gary Bosetti ever ask you to 12:14**
18 **cover as a dispatcher when you were a 12:14**
19 **dockmaster? 12:14**
20 A. I didn't know him at the time. He 12:14
21 wasn't working when I was dockmaster. 12:14
22 **Q. What about Richie Bosetti? 12:14**
23 A. Same thing. He wasn't working when 12:14
24 I was a dockmaster. 12:14
25 **Q. Did any of the plaintiffs ever ask 12:14**
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1 Moran
2 A. Correct. 12:15
3 **Q. Do you know who drafted the text of 12:15**
4 **that generic card? 12:15**
5 A. George did, Chief Hesse. 12:15
6 **Q. Do you know whether Chief Hesse or 12:15**
7 **George Hesse ever made any other business 12:15**
8 **cards? 12:15**
9 MR. NOVIKOFF: Objection. 12:15
10 A. I know he has his own set of 12:15
11 business cards. 12:15
12 **Q. Do you know if George Hesse is able 12:15**
13 **to print out business cards at the department? 12:15**
14 MR. NOVIKOFF: Objection. 12:16
15 MR. CONNOLLY: Objection. 12:16
16 A. Could you repeat the question. 12:16
17 **Q. Yes. Do you know where the Ocean 12:16**
18 **Beach business cards, either George Hesse's or 12:16**
19 **the generic, are actually printed? 12:16**
20 A. No, I don't know where they are 12:16
21 printed. 12:16
22 **Q. Is there a color printer that you 12:16**
23 **are aware of at the Ocean Beach Police 12:16**
24 **Department? 12:16**
25 A. There is a color printer, yes. 12:16
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1 Moran
2 **you to cover as a dispatcher when you were a 12:14**
3 **dockmaster? 12:14**
4 A. No. 12:14
5 MR. NOVIKOFF: Are you going to ask 12:14
6 him about Paradiso or are you going to wait 12:14
7 for me to do it? 12:14
8 **Q. Did Ed Paradiso ever ask you to do 12:14**
9 **that? 12:14**
10 A. No. Because -- no. 12:14
11 **Q. Okay. You can put aside Moran 2. 12:15**
12 **Have you ever had a business card in 12:15**
13 **connection with any of your positions at Ocean 12:15**
14 **Beach? 12:15**
15 A. No. 12:15
16 **Q. Have you ever seen any business 12:15**
17 **cards for Ocean Beach police officers or other 12:15**
18 **employees? 12:15**
19 A. We have a generic business card for 12:15
20 the Police Department. 12:15
21 **Q. The generic card, does that just 12:15**
22 **say -- 12:15**
23 A. Ocean Beach police and the phone 12:15
24 numbers. 12:15
25 **Q. But without a person's name? 12:15**
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1 Moran
2 **Q. Do you know if George Hesse has ever 12:16**
3 **printed any business cards with that printer? 12:16**
4 A. Not to my knowledge. 12:16
5 **Q. Do you know today what George 12:16**
6 **Hesse's business card indicates is his title? 12:16**
7 A. I have no idea. 12:16
8 MR. GRAFF: I will ask the court 12:16
9 reporter to please mark as Exhibit Moran 3 12:16
10 a one-page document bearing Bates number 12:16
11 P 925. 12:16
12 (Moran Exhibit 3, Kevin T. Lambo 12:16
13 business card, Bates stamped P925, marked 12:16
14 for identification.) 12:17
15 **Q. Mr. Moran, if you could take a look 12:17**
16 **at this document and tell me have you ever seen 12:17**
17 **what's reproduced on Moran 3? 12:17**
18 A. What's that? 12:17
19 **Q. Have you ever seen any version of 12:17**
20 **what appears on Moran 3? 12:17**
21 A. No. 12:17
22 **Q. Have you ever heard anyone make 12:17**
23 **reference to anything that you would recognize 12:17**
24 **as Moran 3? 12:17**
25 A. No. 12:17
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1 Moran
2 **Q. Can you tell what is depicted in 12:17**
3 **Moran 3? 12:17**
4 MR. NOVIKOFF: You want him to read 12:18
5 what it says? Doesn't the document speak 12:18
6 for itself? 12:18
7 **Q. Do you recognize Moran 3 as a 12:18**
8 **business card? 12:18**
9 MR. NOVIKOFF: Well, let the record 12:18
10 reflect that -- okay, you could answer the 12:18
11 question. Do you recognize this to be a 12:18
12 business card based upon what's shown to 12:18
13 you? 12:18
14 A. What's shown would appear to be a 12:18
15 business card. 12:18
16 **Q. And do you know whose business card 12:18**
17 **it is? 12:18**
18 MR. NOVIKOFF: Well, it says Kevin 12:18
19 T. Lambo, I mean, so I am going to object 12:18
20 to the question. 12:18
21 **Q. Do you have an understanding of who 12:18**
22 **that's referring to? 12:18**
23 MR. NOVIKOFF: That's a more 12:18
24 appropriate question. Objection to form, 12:18
25 but... 12:18
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1 Moran
2 **Q. Have you ever heard George Hesse 12:19**
3 **refer to Kevin Lamm as gay or homosexual or 12:19**
4 **another word of that sort? 12:19**
5 A. No. 12:19
6 **Q. Do you recognize the telephone 12:19**
7 **number on Moran 3 on the card? 12:19**
8 A. Yes. 12:19
9 **Q. What's that telephone number for? 12:19**
10 A. It's the main -- one of the main 12:19
11 lines of the Police Department. 12:19
12 **Q. And do you recognize in the top 12:19**
13 **right-hand corner of the document there is an 12:20**
14 **emblem or a seal, do you recognize what that 12:20**
15 **emblem or seal depicts? 12:20**
16 MR. NOVIKOFF: There is three 12:20
17 apparent emblems or seals. 12:20
18 **Q. The upper right corner. 12:20**
19 A. The one in the middle or -- you want 12:20
20 the whole thing or which one? 12:20
21 **Q. First the one at the top right. 12:20**
22 MR. NOVIKOFF: Do you recognize 12:20
23 whatever that appears to be? 12:20
24 A. Yes. 12:20
25 **Q. And what is that? 12:20**
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1 Moran
2 A. Yes. 12:18
3 **Q. And who would you understand it to 12:18**
4 **refer to? 12:18**
5 A. It would be Kevin Lamm. 12:18
6 **Q. And the line underneath the name 12:18**
7 **Kevin T. Lambo, could you read that text? 12:18**
8 MR. NOVIKOFF: Well, let the record 12:18
9 reflect that the text speaks for itself. 12:18
10 It says "gay police officer." Is there a 12:18
11 question? 12:18
12 **Q. Other than on this business card, 12:18**
13 **have you ever heard anyone make any statements 12:19**
14 **or references concerning Kevin Lamm and being 12:19**
15 **gay or homosexual? 12:19**
16 MR. NOVIKOFF: Objection to form. 12:19
17 Foundation. This isn't a business card 12:19
18 that you are showing him. It's something 12:19
19 on a piece of paper which he believes looks 12:19
20 like a business card. 12:19
21 MR. GRAFF: Sure. 12:19
22 **Q. Other than Moran 3, have you ever 12:19**
23 **heard any references made to Kevin Lamm being 12:19**
24 **gay or homosexual? 12:19**
25 A. No. 12:19
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1 **Moran**
2 A. It's the state seal, Ocean Beach 12:20
3 Fire Island. 12:20
4 **Q. And then at the top left, do you 12:20**
5 **recognize that? 12:20**
6 A. Yes. 12:20
7 **Q. What is that? 12:20**
8 A. It's the Police Department patch. 12:20
9 **Q. Is that the Ocean Beach Police 12:20**
10 **Department specifically? 12:20**
11 A. Yes. 12:20
12 **Q. And then behind the text "Kevin T. 12:20**
13 **Lambo gay police officer" there is a 12:20**
14 **water-marked image. Can you tell what that is 12:20**
15 **of? 12:20**
16 MR. NOVIKOFF: Only if you know. 12:20
17 A. I can't -- from what this copy is, 12:20
18 it would be the state seal. 12:21
19 **Q. Is there a restroom in the Ocean 12:21**
20 **Beach Police Department? 12:21**
21 MR. NOVIKOFF: Is there a restroom? 12:21
22 A bathroom? 12:21
23 MR. GRAFF: Yes. 12:21
24 A. Yes. 12:21
25 **Q. Have you had occasion to use that 12:21**
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<p>1 Moran</p> <p>2 bathroom? 12:21</p> <p>3 A. Yes. 12:21</p> <p>4 Q. As a dispatcher? 12:21</p> <p>5 A. Yes. 12:21</p> <p>6 Q. What about as a dockmaster? 12:21</p> <p>7 A. Yes. 12:21</p> <p>8 Q. You would also use the same bathroom 12:21</p> <p>9 in the Ocean Beach Police Department? 12:21</p> <p>10 A. Yes. 12:21</p> <p>11 Q. Have you ever seen any writing, 12:21</p> <p>12 writings in that bathroom concerning Kevin 12:21</p> <p>13 Lamm? 12:21</p> <p>14 MR. NOVIKOFF: Where it mentions 12:21</p> <p>15 Kevin Lamm by name or some variation of his 12:21</p> <p>16 name? 12:21</p> <p>17 MR. GRAFF: Yes. 12:21</p> <p>18 MR. NOVIKOFF: Okay. You could 12:21</p> <p>19 answer. 12:21</p> <p>20 A. No. 12:21</p> <p>21 Q. Have you ever seen any writings that 12:21</p> <p>22 mention the name or a variation of the name Tom 12:21</p> <p>23 Snyder? 12:21</p> <p>24 A. No. 12:21</p> <p>25 Q. Have you ever seen any handwritten 12:22</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Moran</p> <p>2 markings written anywhere in the Ocean Beach 12:22</p> <p>3 bathroom? 12:22</p> <p>4 A. Yes. 12:22</p> <p>5 Q. Do you recall what any of those 12:22</p> <p>6 writings said? 12:22</p> <p>7 A. It says "George Hesse was here" in 12:22</p> <p>8 pen and that was it. 12:22</p> <p>9 Q. Can you think of any other writings 12:22</p> <p>10 that you have seen? 12:22</p> <p>11 A. Not to my knowledge. 12:22</p> <p>12 Q. Is it possible that there were other 12:22</p> <p>13 writings that you don't recall or do you think 12:22</p> <p>14 that there were never other writings in the 12:22</p> <p>15 bathroom when you were there? 12:22</p> <p>16 MR. NOVIKOFF: Objection. 12:22</p> <p>17 A. Can you repeat. 12:22</p> <p>18 Q. Yes. Do you believe that the only 12:22</p> <p>19 writing in the Ocean Beach Police Department 12:22</p> <p>20 bathroom on the occasions when you have been 12:22</p> <p>21 there was "George Hesse was here," or is it 12:22</p> <p>22 possible that there is others that you have 12:22</p> <p>23 forgotten? 12:22</p> <p>24 MR. NOVIKOFF: Objection. 12:22</p> <p>25 MR. CONNOLLY: Objection. 12:22</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 Moran</p> <p>2 A. There could be others, but I can't 12:22</p> <p>3 recall what they said if there were. 12:23</p> <p>4 Q. Other than the writing referring to 12:23</p> <p>5 George Hesse, can you recall any other writings 12:23</p> <p>6 that referred to a name or variation of a name 12:23</p> <p>7 of any other person? 12:23</p> <p>8 A. No. 12:23</p> <p>9 Q. Do you know who wrote "George Hesse 12:23</p> <p>10 was here" in the bathroom? 12:23</p> <p>11 A. No. 12:23</p> <p>12 Q. Did it appear to you to be in George 12:23</p> <p>13 Hesse's handwriting? 12:23</p> <p>14 A. I have no idea. 12:23</p> <p>15 MR. GRAFF: I am going to ask the 12:23</p> <p>16 court reporter to please mark as 12:23</p> <p>17 Exhibit Moran 4 a two-page document 12:23</p> <p>18 produced by plaintiffs. 12:24</p> <p>19 (Moran Exhibit 4, photocopy of 12:24</p> <p>20 writing, two pages, marked for 12:24</p> <p>21 identification.) 12:24</p> <p>22 Q. Mr. Moran, if you could take a 12:24</p> <p>23 minute to look at the first page of what's been 12:24</p> <p>24 marked as Moran 4, are you able to read what 12:24</p> <p>25 appears to be the handwritten writing in this 12:24</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Moran</p> <p>2 image? 12:24</p> <p>3 A. It's kind of blurry. 12:24</p> <p>4 Q. Can you read any of the words? 12:25</p> <p>5 A. Yes. 12:25</p> <p>6 Q. Could you please read the words that 12:25</p> <p>7 you can read? 12:25</p> <p>8 A. "Prepare to be Snyderized" with a 12:25</p> <p>9 cross and then "woman" above with arrows. 12:25</p> <p>10 MR. NOVIKOFF: Again, let the record 12:25</p> <p>11 reflect that the document says what it 12:25</p> <p>12 says. This witness could try to interpret 12:25</p> <p>13 what the arrows and the cross-outs mean, 12:25</p> <p>14 but it doesn't replace the fact that this 12:25</p> <p>15 document, which has been marked as an 12:25</p> <p>16 exhibit, does say what it says. 12:25</p> <p>17 MR. GRAFF: I am just trying to 12:25</p> <p>18 ascertain if Mr. Moran can recognize this 12:25</p> <p>19 image as anything rather than -- 12:25</p> <p>20 MR. NOVIKOFF: Well, did you ask him 12:25</p> <p>21 that? I mean, ask him. 12:25</p> <p>22 Have you ever seen anything in the 12:25</p> <p>23 bathroom walls that looks like Moran 4? 12:25</p> <p>24 MR. GRAFF: Well, if Moran 4 is too 12:25</p> <p>25 blurry to be seen, then I think the answer 12:25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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1 Moran
2 would be no. 12:26
3 MR. NOVIKOFF: Oh, I don't think 12:26
4 it's it blurry to be seen. I think the 12:26
5 record will reflect that the arrows and the 12:26
6 words and the cross-outs are pretty clear. 12:26
7 **Q. Mr. Moran, have you ever seen 12:26**
8 **anything like the first page of Moran 4 written 12:26**
9 **on a wall or a stall in the Ocean Beach 12:26**
10 **bathroom? 12:26**
11 A. I can't recall. 12:26
12 **Q. What about the second page? 12:26**
13 A. I can't recall. 12:26
14 **Q. This one genuinely has some blur. 12:26**
15 **Can you tell what the words on the second page 12:26**
16 **are? 12:26**
17 MR. NOVIKOFF: Again, the document 12:26
18 speaks for itself, Ari. I will reflect 12:26
19 that at least according to this document 12:26
20 the second page has the word "or" on it, 12:26
21 there seems to be an arrow, the word "Lamm" 12:26
22 with a line through the word, then 12:26
23 underneath the arrow and "Lamm" it says 12:27
24 "fag," and underneath the word "fag" there 12:27
25 appears to be the letters I-N-A-T-E-D with 12:27
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1 Moran
2 **appears to be on the second page? 12:28**
3 MR. CONNOLLY: Objection. 12:28
4 MR. NOVIKOFF: Again, this doesn't 12:28
5 reflect that it's on wood or anything else. 12:28
6 It's a photocopy of something that appears 12:28
7 to be a photocopy of words appearing on 12:28
8 something. Whether it's wood or a piece of 12:28
9 paper or cardboard, who knows. 12:28
10 MR. GRAFF: Okay. If Mr. Moran is 12:28
11 able to answer the last question, then I am 12:28
12 done with the document. 12:28
13 A. So repeat your question. 12:28
14 **Q. Are there walls or stalls in the 12:28**
15 **Ocean Beach Police Department bathroom that are 12:28**
16 **constructed of unfinished wood? 12:28**
17 A. Yes. 12:28
18 **Q. Thank you. 12:28**
19 **When was the last time that you 12:28**
20 **spoke with Mayor Loeffler? 12:28**
21 A. After -- direct conversation? After 12:29
22 when I applied for the fire marshal position. 12:29
23 **Q. And have you ever spoken directly 12:29**
24 **with Mayor Rogers either before or after his 12:29**
25 **service as mayor? 12:29**
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1 Moran
2 at least two exclamation marks. 12:27
3 **Q. Okay. Can you also see the document 12:27**
4 **as reflecting what Mr. Novikoff described? 12:27**
5 A. Yes. 12:27
6 **Q. Have you ever seen this written in 12:27**
7 **the bathroom? 12:27**
8 A. Not that I can recall. 12:27
9 **Q. Can you tell from either of these 12:27**
10 **pages where this writing or what space is being 12:27**
11 **depicted here? 12:27**
12 MR. NOVIKOFF: Objection to form. 12:27
13 What's the question? 12:27
14 MR. GRAFF: Does he recognize the 12:27
15 backdrop against which these words are 12:27
16 written. 12:27
17 MR. NOVIKOFF: Okay. Don't guess. 12:27
18 If you recognize -- 12:27
19 A. It would be on a wall. 12:27
20 MR. NOVIKOFF: Don't guess. Do you 12:27
21 know? 12:27
22 A. On a wall. 12:27
23 **Q. Is the bathroom in the Ocean Beach 12:27**
24 **Police Department or the walls or any walls in 12:27**
25 **the stalls unfinished wood of the type that 12:27**
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1 Moran
2 A. No. 12:29
3 **Q. Have you ever spoken directly with 12:29**
4 **Mary Anne Minerva? 12:29**
5 A. No. 12:29
6 **Q. Do you know who that person is? 12:29**
7 A. Yes. She is the Village 12:29
8 administrator. 12:29
9 **Q. Do you know a person by the name of 12:29**
10 **Kathy or Katherine Spies? 12:29**
11 A. No. 12:29
12 **Q. Is Pat Cherry currently working at 12:29**
13 **the Ocean Beach Police Department? 12:29**
14 A. Yes. 12:29
15 **Q. In what capacity is he working? 12:29**
16 A. Dispatcher. 12:29
17 **Q. When is the last time you spoke to 12:29**
18 **Pat Cherry? 12:29**
19 A. I saw him yesterday. 12:29
20 **Q. Do you know who, if anyone, other 12:30**
21 **than yourself has had a deposition in this 12:30**
22 **case? 12:30**
23 A. No. 12:30
24 **Q. Has anyone indicated to you that 12:30**
25 **they had or were going to have their deposition 12:30**
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1 Moran
2 taken in this case? 12:30
3 A. No. 12:30
4 Q. Have you discussed the fact that 12:30
5 your deposition is happening today with anyone 12:30
6 other than counsel? 12:30
7 A. No. 12:30
8 Q. So does anyone outside of this room 12:30
9 know where you are? 12:30
10 A. Actually, can I clarify? 12:30
11 Q. Please. 12:30
12 A. I told my boss for the city that I 12:30
13 had to take the day off. That was it. My 12:30
14 lawyer and my boss. That's it. 12:30
15 Q. Did you tell anyone at Ocean Beach 12:30
16 that you were -- 12:30
17 A. No. 12:30
18 Q. When was the last time you worked, 12:30
19 like the last day that you worked at Ocean 12:30
20 Beach? 12:30
21 A. Saturday, 4 p.m. to midnight, 12:30
22 midnight to 8. 12:31
23 Q. And did you speak with any other 12:31
24 employees of the Ocean Beach Police Department 12:31
25 on Saturday? 12:31
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1 Moran
2 Q. And what was the first college or 12:31
3 university that you attended after graduating 12:31
4 high school? 12:31
5 A. SUNY Rockland Community College. 12:31
6 Q. And did you attain a degree there? 12:32
7 A. Yes. 12:32
8 Q. In what was your degree? 12:32
9 A. Associate's of applied science. 12:32
10 Q. And do you hold any other degrees? 12:32
11 A. Yes. 12:32
12 Q. What other degrees? 12:32
13 A. Bachelor's of science. 12:32
14 Q. Where did you obtain that degree? 12:32
15 A. University of New Haven. 12:32
16 Q. Other than those two degrees, do you 12:32
17 hold any other degrees? 12:32
18 A. No. 12:32
19 Q. Do you hold any other 12:32
20 certifications? 12:32
21 MR. NOVIKOFF: Objection to form. 12:32
22 You can answer. 12:32
23 A. For work, yes. 12:32
24 Q. For your work at the Fire 12:32
25 Department? 12:32
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1 Moran
2 A. No. 12:31
3 Q. About anything? 12:31
4 MR. NOVIKOFF: Well, objection. I 12:31
5 mean, anything related to this lawsuit or 12:31
6 anything in general? 12:31
7 Q. In general, did you -- 12:31
8 A. Yes. 12:31
9 Q. Who did you speak to? Who was there 12:31
10 that night? 12:31
11 MR. NOVIKOFF: On Saturday? 12:31
12 MR. GRAFF: Yes. 12:31
13 MR. NOVIKOFF: Objection. 12:31
14 A. Whatever calls went out, I 12:31
15 dispatched, but in regards to this case, no. 12:31
16 Q. Have you ever been convicted of a 12:31
17 crime? 12:31
18 A. No. 12:31
19 Q. Did you graduate high school? 12:31
20 A. Yes. 12:31
21 Q. Which high school? 12:31
22 A. Irvington High School. 12:31
23 Q. Did you attend any college or 12:31
24 university? 12:31
25 A. Yes. 12:31
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1 Moran
2 A. Yes. 12:32
3 Q. What kind of certifications? 12:32
4 A. New York State peace officer without 12:32
5 firearms, and certification for New York City 12:32
6 Fire Department for fire inspector. 12:32
7 Q. And other than college or university 12:32
8 that ended with a degree, did you take any 12:32
9 other college or university courses? 12:32
10 A. No. 12:32
11 Q. Are you married? 12:32
12 A. No. 12:33
13 Q. Do you have children? 12:33
14 A. No. 12:33
15 Q. Have you ever been married? 12:33
16 A. No. 12:33
17 Q. Have you ever been a plaintiff in a 12:33
18 lawsuit? 12:33
19 A. No. 12:33
20 Q. Have you ever been a defendant in a 12:33
21 lawsuit? 12:33
22 A. No. 12:33
23 Q. Have you ever threatened to sue your 12:33
24 employer, any employer? 12:33
25 A. No. 12:33
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1 Moran
2 **Q. Has anyone ever threatened to sue you?** 12:33
3 **A. No.** 12:33
4 **Q. Have any civilian complaints been filed against you in connection with your jobs at Ocean Beach?** 12:33
5 **A. No.** 12:33
6 **Q. What about in connection with your jobs at the city?** 12:33
7 **A. No.** 12:33
8 **Q. Have you ever been terminated?** 12:33
9 **A. Yes.** 12:33
10 **Q. When was the most recent time that you were terminated?** 12:33
11 MR. NOVIKOFF: Well, I am assuming 12:33
12 when you say "terminated," you mean fired? 12:33
13 MR. GRAFF: Yes. 12:33
14 MR. NOVIKOFF: As opposed to the 12:33
15 season ending. 12:34
16 MR. GRAFF: Yes. I am not asking 12:34
17 about that. 12:34
18 MR. NOVIKOFF: Okay. Fine. 12:34
19 Do you understand? 12:34
20 THE WITNESS: Yes. 12:34
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1 Moran
2 **Q. Have you ever been fired from a job?** 12:34
3 **A. Yes.** 12:34
4 **Q. And what was the most recent job that you were fired from?** 12:34
5 **A. It was back in when I was like 17 with the Village when I was a dockmaster.** 12:34
6 **Q. Did you say when you were 17?** 12:34
7 **A. Yes.** 12:34
8 **Q. Who fired you?** 12:34
9 **A. The Village. I don't know the exact person, but the Village let me go.** 12:34
10 **Q. Was any reason communicated to you for why you were fired from that position?** 12:34
11 **A. The reason was that I took money and that was -- they found out and they let me go.** 12:34
12 **Q. How much money?** 12:34
13 **A. I can't recall how much at this time. It was years ago.** 12:34
14 MR. NOVIKOFF: How many years ago? 12:35
15 **A. Twelve years ago maybe, 13 years ago.** 12:35
16 **Q. How old are you?** 12:35
17 **A. 31.** 12:35
18 **Q. Can I just get your date of birth,** 12:35
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1 Moran
2 **please?** 12:35
3 **A. May 23rd, 1978.** 12:35
4 **Q. Have you personally ever had a drink at any bars in Ocean Beach?** 12:35
5 **A. Yes.** 12:35
6 **Q. When was the last time you had a drink at a bar in Ocean Beach?** 12:35
7 **A. Last summer.** 12:35
8 **Q. Have you ever had drinks with any other employees of Ocean Beach?** 12:35
9 MR. NOVIKOFF: In a bar? 12:35
10 MR. GRAFF: Anywhere. 12:35
11 **A. Outside of work?** 12:35
12 **Q. Yes.** 12:35
13 **A. No. Actually, yes, yes.** 12:35
14 **Q. Who have you had drinks with?** 12:36
15 **A. One time last year with Mike Mills after I was off, he was off.** 12:36
16 **Q. And then what about -- you had said outside of work. What about during work or inside of work?** 12:36
17 **A. No.** 12:36
18 **Q. Have you ever had a drink of an alcoholic beverage inside the Ocean Beach** 12:36
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1 Moran
2 **Police Department?** 12:36
3 **A. No.** 12:36
4 **Q. What about inside the Ocean Beach police barracks?** 12:36
5 **A. Yes.** 12:36
6 **Q. When was the last time you had a drink in the barracks?** 12:36
7 **A. Four years ago.** 12:36
8 **Q. And who did you have a drink with at that time?** 12:36
9 **A. Myself. I was the only one present.** 12:36
10 **Q. Other than on that occasion, did you ever have any other drinks in the barracks?** 12:36
11 **A. No.** 12:36
12 **Q. How many drinks, if you remember, did you have on that occasion in the barracks drinking by yourself?** 12:37
13 **A. Two beers.** 12:37
14 **Q. Two beers?** 12:37
15 **A. Yes.** 12:37
16 **Q. What kind of beers, if you remember?** 12:37
17 **A. I can't remember.** 12:37
18 **Q. Has anyone ever communicated to you that any members of the Ocean Beach Police** 12:37
19 TSG Reporting - Worldwide (877) 702-9580

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1 Moran
2 Department ever confiscated beers from 12:37
3 civilians for any reason? 12:37
4 A. Yes. 12:37
5 MR. NOVIKOFF: Well, I am going to 12:37
6 object to the form. When you say 12:37
7 confiscate beer from civilians, are you 12:37
8 saying took alcoholic beverages from 12:37
9 civilians for no reason or took it and 12:37
10 then -- 12:37
11 MR. GRAFF: For any reason. I was 12:37
12 about to -- 12:37
13 MR. NOVIKOFF: Okay. Why don't you 12:37
14 clarify the question. 12:37
15 Q. Who communicated to you -- who told 12:37
16 you that they or other members of the Ocean 12:38
17 Beach Police Department had confiscated beer 12:38
18 from a civilian? 12:38
19 A. I don't understand the question. 12:38
20 Q. My first question was do you know 12:38
21 if -- has anyone ever told you if that's 12:38
22 happened? 12:38
23 A. Yes. 12:38
24 Q. Now I am asking who told you. 12:38
25 A. I don't know who, but it has 12:38
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1 Moran
2 itself? 12:39
3 MR. NOVIKOFF: In the physical 12:39
4 building? Are you asking the physical 12:39
5 building? 12:39
6 MR. GRAFF: Yes. 12:39
7 MR. NOVIKOFF: Okay. 12:39
8 A. Yes. 12:39
9 Q. Who did you see drink there? 12:39
10 A. Gary and Richie Bosetti. 12:39
11 Q. Did you see Gary or Richie Bosetti 12:39
12 drinking in the police barracks on more than 12:39
13 one occasion? 12:39
14 MR. NOVIKOFF: You said police 12:39
15 station. 12:39
16 A. Station or barracks? 12:39
17 Q. I'm sorry, police station on more 12:39
18 than one occasion. 12:39
19 MR. NOVIKOFF: He asked you two 12:39
20 questions ago whether or not you had seen 12:39
21 any other police officers -- anybody else 12:39
22 drink in the police barracks. You answered 12:39
23 no. 12:39
24 MR. GRAFF: He answered he didn't 12:39
25 recall. 12:39
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1 Moran
2 happened. 12:38
3 Q. Do you know when it does happen what 12:38
4 is done with the beers that are confiscated? 12:38
5 MR. NOVIKOFF: Objection to form. 12:38
6 You can answer. 12:38
7 A. They are taken up to the police 12:38
8 barracks. 12:38
9 Q. For what purpose, if you know? 12:38
10 MR. NOVIKOFF: Objection. 12:38
11 A. I don't know the purpose. 12:38
12 Q. Do you know if they are consumed in 12:38
13 the police barracks? 12:38
14 MR. NOVIKOFF: Objection. 12:38
15 A. No. 12:38
16 Q. Has anyone ever communicated to you 12:38
17 that they had consumed beer or other alcoholic 12:38
18 beverage that had been confiscated from a 12:38
19 civilian? 12:38
20 A. No. 12:38
21 Q. Have you ever seen any other 12:38
22 employees of Ocean Beach drink in the police 12:38
23 barracks? 12:38
24 A. No, not that I can recall. 12:38
25 Q. What about in the police department 12:39
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1 Moran
2 MR. NOVIKOFF: You don't recall. 12:39
3 The next question was did you ever see 12:39
4 anybody drink in the Police Department and 12:40
5 you just answered yes. Did you understand 12:40
6 the questions? 12:40
7 A. Let me -- so what is your question? 12:40
8 Q. How many times did you see Gary or 12:40
9 Richie Bosetti drink in the police department 12:40
10 station? 12:40
11 A. Only one time. 12:40
12 Q. And did you see both of them 12:40
13 drinking on that occasion? 12:40
14 A. Yes. 12:40
15 Q. What were they drinking? 12:40
16 MR. NOVIKOFF: If you know. 12:40
17 A. I don't -- I can't recall. 12:40
18 Q. Was anyone else drinking with them? 12:40
19 A. I can't recall. 12:40
20 Q. Was anyone else present in the 12:40
21 station other than you and the Bosettis? 12:40
22 A. I can't recall. 12:40
23 Q. Do you recall when that incident 12:40
24 took place? 12:40
25 A. No. 12:40
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1 Moran
2 **Q. Other than that one instance with 12:40**
3 **the Bosettis, have you seen anyone else 12:40**
4 **drinking alcohol in the Ocean Beach police 12:40**
5 **station? 12:40**
6 A. Not that I can recall. 12:40
7 **Q. Has anyone ever communicated to you 12:41**
8 **that any Ocean Beach police officer had drinks 12:41**
9 **while they were on duty? 12:41**
10 A. No, not that I can recall. 12:41
11 **Q. Do you know whether the Bosettis 12:41**
12 **were on duty on the one occasion which you saw 12:41**
13 **them in the department? 12:41**
14 A. Repeat your question. 12:41
15 **Q. On the occasion when you saw the 12:41**
16 **Bosettis drinking in the police station, do you 12:41**
17 **know if they were on duty at that time? 12:41**
18 A. Yes. 12:41
19 **Q. Were they on duty? 12:41**
20 A. Yes. 12:41
21 **Q. Do you know if there is any rule or 12:41**
22 **policy that would prohibit an Ocean Beach 12:41**
23 **police officer from drinking while on duty? 12:41**
24 A. I can't recall. 12:41
25 **Q. Is there any policy or rule that 12:41**
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1 Moran
2 **would prohibit Ocean Beach police officers from 12:41**
3 **drinking in Ocean Beach when they were off 12:41**
4 **duty? 12:41**
5 A. No. 12:41
6 MR. NOVIKOFF: What was the 12:42
7 question? 12:42
8 (Record read.) 12:42
9 MR. NOVIKOFF: Now you want to talk 12:42
10 to me? 12:42
11 THE WITNESS: Yes. 12:42
12 MR. GRAFF: Okay, let's go off the 12:42
13 record. 12:42
14 (Recess was taken from 12:42 to 12:42
15 12:45.) 12:42
16 (Record read.) 12:45
17 MR. NOVIKOFF: The witness wants to 12:45
18 clarify that. 12:45
19 BY MR. GRAFF: 12:45
20 **Q. Please. 12:45**
21 A. George basically told us at one 12:46
22 point that once you are done your shift, to go 12:46
23 home, and even though you are off duty, but not 12:46
24 to drink. He verbally told us that when your 12:46
25 shift is over, just go home, not to drink in 12:46
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1 Moran
2 the Village. 12:46
3 MR. NOVIKOFF: Off duty. 12:46
4 A. Off duty. 12:46
5 **Q. At what point did George Hesse say 12:46**
6 **that? 12:46**
7 A. I can't recall the exact time. 12:46
8 **Q. Did he say it to you in your 12:46**
9 **presence? 12:46**
10 A. Yes, it was a general statement that 12:46
11 when you are off duty, just go home. 12:46
12 **Q. Were there other people other than 12:46**
13 **you and Mr. Hesse present? 12:46**
14 A. Yes. 12:46
15 **Q. Was it a general department meeting? 12:46**
16 A. I can't recall. 12:46
17 **Q. Do you recall where that 12:46**
18 **conversation took place? 12:46**
19 A. No. 12:46
20 **Q. Do you recall any of the other 12:46**
21 **individuals who were present? 12:47**
22 A. No. 12:47
23 **Q. Did you ever discuss with anyone or 12:47**
24 **mention to anyone that George Hesse had said 12:47**
25 **that? 12:47**
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1 Moran
2 A. No. 12:47
3 **Q. Have you ever had any conversations 12:47**
4 **with any other employees of Ocean Beach Police 12:47**
5 **Department regarding the issue of police 12:47**
6 **officers drinking on or off duty? 12:47**
7 A. No. 12:47
8 **Q. Did you ever have any conversation 12:47**
9 **with Gary or Richie Bosetti about any of the 12:47**
10 **plaintiffs in this case? 12:47**
11 A. No. 12:47
12 MR. NOVIKOFF: Before or after April 12:47
13 2006? 12:47
14 MR. GRAFF: Before or after. 12:47
15 MR. NOVIKOFF: Okay. 12:47
16 A. No. 12:47
17 **Q. Have you ever heard Gary or Richie 12:47**
18 **Bosetti make any statements about any of the 12:47**
19 **plaintiffs in this case? 12:47**
20 A. No. 12:47
21 **Q. Other than the fact that the 12:47**
22 **plaintiffs were suing Ocean Beach and that they 12:48**
23 **had been let go at the meeting, has George 12:48**
24 **Hesse ever said anything else to you about any 12:48**
25 **of the plaintiffs in this case? 12:48**
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1 **Moran**
2 A. In what regards? 12:48
3 **Q. Any regards.** 12:48
4 A. Can I -- give me one second. 12:48
5 MR. NOVIKOFF: You have got to 12:48
6 answer that one. 12:48
7 A. Yes. 12:48
8 **Q. Has he made more than one such** 12:48
9 **statement?** 12:48
10 A. No. 12:48
11 **Q. And what was the statement that you** 12:48
12 **are referring to?** 12:48
13 A. Can I talk to him? 12:48
14 MR. NOVIKOFF: You have to answer 12:48
15 the question and then you can talk to me. 12:48
16 A. He basically told me with Kevin -- 12:48
17 because Kevin was trying to go for the PD -- 12:48
18 Suffolk County PD and somebody's review, I 12:49
19 guess, that he had a review for him and that it 12:49
20 was unfavorable. 12:49
21 **Q. I'm not sure I followed that.** 12:49
22 **George Hesse told you that he --** 12:49
23 A. In passing that supposedly Kevin was 12:49
24 trying to get him a job with Suffolk County 12:49
25 police as an officer and he got a review or 12:49
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1 **Moran**
2 somebody's review from the Village to the -- 12:49
3 for him, for Suffolk County. 12:49
4 **Q. And at what point in time is that,** 12:49
5 **more specifically? Was that after the April** 12:49
6 **2006 meeting?** 12:49
7 A. Yes, it was after. 12:49
8 **Q. And did you understand Hesse to be** 12:49
9 **referring to like an employment reference or** 12:49
10 **recommendation for the job?** 12:50
11 MR. NOVIKOFF: Objection to form. 12:50
12 MR. CONNOLLY: Objection. 12:50
13 A. Could you repeat. 12:50
14 **Q. When you say "review," do you mean** 12:50
15 **the same thing as like a reference or** 12:50
16 **recommendation or something?** 12:50
17 A. Yes. 12:50
18 **Q. Did George Hesse indicate to you at** 12:50
19 **all what the nature of the bad review was?** 12:50
20 A. No. 12:50
21 **Q. Did he say why he had given a bad** 12:50
22 **review?** 12:50
23 A. No. 12:50
24 **Q. Did you ask?** 12:50
25 A. No. 12:50
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1 **Moran**
2 **Q. Did you discuss the statement that** 12:50
3 **George Hesse made to you with anyone?** 12:50
4 A. No. 12:50
5 **Q. Did you discuss it with Kevin Lamm?** 12:50
6 A. Yes. 12:50
7 **Q. Did you discuss it with anyone else?** 12:50
8 A. No. 12:50
9 **Q. When did you discuss it with Kevin** 12:50
10 **Lamm?** 12:50
11 A. I do not recall exactly when, but it 12:50
12 was -- I talked to him on the phone. I don't 12:50
13 know when, but... 12:51
14 **Q. Sort of a tricky question to say** 12:51
15 **precisely. Would you say that you are friends** 12:51
16 **with Kevin Lamm?** 12:51
17 A. Yes, I was friends with him. 12:51
18 MR. NOVIKOFF: Is the question today 12:51
19 or any time before today? 12:51
20 MR. GRAFF: He indicated he was. 12:51
21 **Q. Would you today consider yourself --** 12:51
22 A. No. 12:51
23 **Q. Why not?** 12:51
24 A. I don't know. I liked him and then 12:51
25 after a while we just -- I haven't talked to 12:51
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1 **Moran**
2 him in a while. 12:51
3 **Q. Did you have some sort of dispute or** 12:51
4 **falling out?** 12:51
5 A. No. 12:51
6 **Q. What about Frank, would you say that** 12:51
7 **at any point you considered yourself to be** 12:51
8 **friends with Frank Fiorillo?** 12:51
9 A. Yeah. 12:51
10 **Q. As you sit here today, is there** 12:51
11 **anything that has happened?** 12:52
12 A. No. 12:52
13 **Q. So you would still consider Frank a** 12:52
14 **friend?** 12:52
15 A. Yeah. 12:52
16 **Q. What about Ed Carter?** 12:52
17 A. Yeah. 12:52
18 **Q. You would consider him a friend?** 12:52
19 A. Yeah. 12:52
20 **Q. What about Tom Snyder?** 12:52
21 A. I guess, yeah. 12:52
22 **Q. What about Joe Nofi?** 12:52
23 A. Yeah. 12:52
24 **Q. What about George Hesse?** 12:52
25 A. Yeah. 12:52
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1 Moran
2 **Q. What about Gary Bosetti?** 12:52
3 A. Yeah. 12:52
4 **Q. What about Richie Bosetti?** 12:52
5 A. Yes. 12:52
6 **Q. Just to be clear, all these** 12:52
7 **questions I am asking if you would consider** 12:52
8 **them friends.** 12:52
9 A. Yes, yes, yes, yes. 12:52
10 **Q. During the time prior to April 2nd,** 12:52
11 **2006 did you have an opinion either way as to** 12:52
12 **whether Kevin Lamm and Frank Fiorillo were** 12:52
13 **friends?** 12:52
14 MR. NOVIKOFF: Wait a minute. Prior 12:52
15 to -- objection. The question is prior to 12:52
16 April 2006 did this witness have an opinion 12:52
17 as to whether or not Mr. Fiorillo and 12:53
18 Mr. Lamm were friends? I am going to 12:53
19 object. Completely irrelevant, but you can 12:53
20 answer. 12:53
21 A. I guess they were friends. They 12:53
22 worked together. 12:53
23 **Q. Did you have an opinion as to** 12:53
24 **whether Frank and Richie Bosetti were friends?** 12:53
25 A. I don't know. 12:53
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1 Moran
2 A. Yeah. 12:54
3 **Q. What is that position?** 12:54
4 A. It's one of the trustees. I believe 12:54
5 one of the trustees is a liaison to the Police 12:54
6 Department. I don't know much -- I don't know 12:54
7 who it is or -- 12:54
8 **Q. Do you know anyone who has been in** 12:54
9 **that position?** 12:54
10 A. No, I can't recall. 12:54
11 **Q. Do you know whether current Mayor** 12:54
12 **Loeffler was ever the police liaison?** 12:54
13 A. I don't know. 12:54
14 **Q. How did you hear of the existence of** 12:54
15 **a position police liaison?** 12:54
16 A. I don't know. 12:54
17 **Q. Did George Hesse ever make any** 12:54
18 **statements to you concerning Ocean Beach police** 12:54
19 **liaison?** 12:54
20 A. No. 12:54
21 **Q. Do you know who the liaison was when** 12:54
22 **Mayor Rogers was mayor?** 12:55
23 A. No. 12:55
24 **Q. We touched on a similar question** 12:55
25 **earlier, but have you read any transcript from** 12:55
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1 Moran
2 MR. NOVIKOFF: Note my objection. 12:53
3 **Q. Is there such a position as Ocean** 12:53
4 **Beach police commissioner?** 12:53
5 MR. NOVIKOFF: Objection. 12:53
6 Foundation. Form. 12:53
7 You can answer. 12:53
8 A. Yeah, it would be the mayor. 12:53
9 **Q. So currently that would be Mayor** 12:53
10 **Loeffler is the police commissioner?** 12:53
11 A. Correct. 12:53
12 **Q. And was Mayor Rogers police** 12:53
13 **commissioner?** 12:53
14 A. Yes. 12:53
15 **Q. Can you think of -- other than those** 12:53
16 **two individuals, can you think of anyone else** 12:53
17 **who served as Ocean Beach police commissioner?** 12:53
18 A. In the past or from my knowledge? 12:53
19 **Q. As far as you --** 12:53
20 A. From what I can recall, it was just 12:53
21 those two people. 12:54
22 **Q. Is there a position Ocean Beach** 12:54
23 **police liaison?** 12:54
24 MR. NOVIKOFF: Objection. Form. 12:54
25 Foundation. 12:54
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1 **Moran**
2 **any other depositions in this case?** 12:55
3 A. No. 12:55
4 MR. GRAFF: I am going to ask the 12:55
5 court reporter to please mark as 12:55
6 Exhibit Moran 5 a multi-page document 12:55
7 produced by Ocean Beach, Bates numbers 1 12:55
8 through 25, titled Incorporated Village of 12:55
9 Ocean Beach, Employee Handbook. 12:55
10 (Moran Exhibit 5, The Incorporated 12:56
11 Village of Ocean Beach Employee Handbook, 12:56
12 Bates stamped 1 through 25, marked for 12:56
13 identification.) 12:56
14 **Q. Mr. Moran, if you could take as much** 12:56
15 **time as you need to look through that document** 12:56
16 **to tell me if it's something that you have seen** 12:56
17 **before.** 12:56
18 MR. NOVIKOFF: Take a look. Go 12:56
19 through it page by page if you have to. 12:56
20 (Document review.) 12:56
21 MR. GRAFF: While Mr. Moran is 12:57
22 reviewing, I think that I probably have 12:57
23 approximately an hour left of questioning. 12:57
24 Would anyone want to continue for an hour? 12:57
25 Off the record. 12:57
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1 Moran
2 (Discussion off the record.) 12:58
3 BY MR. GRAFF: 12:58
4 **Q. Mr. Moran, having reviewed Moran 5, 01:01**
5 **can you tell me if you recognize the document 01:01**
6 **as something you have seen before? 01:01**
7 A. No. It's my first -- 01:01
8 **Q. I'm sorry, it's your -- 01:01**
9 A. First time with this. First time I 01:01
10 have seen this. 01:01
11 **Q. Have you ever seen a document called 01:01**
12 **Ocean Beach Handbook? 01:01**
13 A. No. 01:01
14 **Q. Employee Handbook? 01:01**
15 A. No. 01:01
16 MR. GRAFF: Okay. Why don't we take 01:01
17 a break now and we can discuss timing off 01:01
18 the record. 01:01
19 MR. NOVIKOFF: You got it. 01:01
20 (Lunch Recess was taken from 1:01 to 01:01
21 2:01.) 01:01
22 CONTINUED EXAMINATION BY 01:01
23 MR. GRAFF: 02:01
24 **Q. Good afternoon, again, Mr. Moran. 02:01**
25 **If you recall, earlier today I had 02:01**
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1 Moran
2 **the beers that were in the barracks 02:02**
3 **refrigerator? 02:02**
4 A. No. 02:02
5 **Q. Do you know today whether as you sit 02:02**
6 **here today presently there are beers in the 02:02**
7 **barracks? 02:02**
8 A. No idea. 02:02
9 **Q. On Saturday when you last worked at 02:02**
10 **Ocean Beach, were you in the barracks? 02:02**
11 A. No. 02:02
12 **Q. Do you know who at any point 02:02**
13 **purchased any beers that may have been in the 02:02**
14 **refrigerator in the barracks? 02:02**
15 A. I have no idea. 02:02
16 **Q. Other than that one occasion when 02:02**
17 **you opened the fridge to get that one beer that 02:03**
18 **you drank, were there any other times that you 02:03**
19 **were aware that there were beers in the fridge 02:03**
20 **in the barracks? 02:03**
21 A. Could you repeat the question. 02:03
22 **Q. Other than the specific time that 02:03**
23 **you opened up the fridge and took a beer out, 02:03**
24 **were you ever at any other time aware that 02:03**
25 **there were beers in that refrigerator? 02:03**
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1 Moran
2 **asked you some questions about a beer that you 02:01**
3 **drank at the barracks on one occasion. 02:01**
4 MR. NOVIKOFF: Was it the barracks 02:01
5 or the police station? 02:01
6 **Q. Was it a beer that you drank in the 02:01**
7 **barracks? 02:01**
8 MR. NOVIKOFF: Oh, that he drank. 02:01
9 Okay. 02:02
10 A. Yes. 02:02
11 **Q. Did you get that beer in the 02:02**
12 **refrigerator in the barracks? 02:02**
13 A. Yes. 02:02
14 **Q. Were there other beers in that 02:02**
15 **refrigerator? 02:02**
16 A. Yes. 02:02
17 **Q. Was that a beer that you drank, was 02:02**
18 **it a beer that you had purchased? 02:02**
19 MR. NOVIKOFF: That he had 02:02
20 purchased? 02:02
21 A. No. 02:02
22 **Q. Do you know who had purchased the 02:02**
23 **beer that you drank? 02:02**
24 A. No. 02:02
25 **Q. Do you know who had purchased any of 02:02**
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1 Moran
2 A. Yes. 02:03
3 **Q. And how did you come to be aware on 02:03**
4 **other occasions that there were beers in that 02:03**
5 **refrigerator? 02:03**
6 MR. NOVIKOFF: Note my objection to 02:03
7 the form. 02:03
8 You can answer. 02:03
9 A. Repeat that. 02:03
10 **Q. How is it that you know that on 02:03**
11 **other occasions there were beers in the fridge? 02:03**
12 A. It was there. 02:03
13 **Q. Did you ever see anyone else 02:03**
14 **drinking beers in the barracks from the 02:04**
15 **refrigerator? 02:04**
16 A. No. 02:04
17 **Q. When you took the beer that you 02:04**
18 **drank, do you remember how many other beers 02:04**
19 **were in the refrigerator? 02:04**
20 A. No. 02:04
21 **Q. Did you ever hear anything in 02:04**
22 **connection with the Halloween incident, did you 02:04**
23 **ever hear anyone make any reference 02:04**
24 **specifically to any reports involved in that 02:04**
25 **incident? 02:04**
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1 **Moran**
2 MR. NOVIKOFF: Objection. Asked and 02:04
3 answered. 02:04
4 You can answer. 02:04
5 A. Repeat your question. 02:04
6 **Q. Earlier today you had mentioned the 02:04**
7 **Halloween incident. 02:04**
8 **My question is did you ever hear 02:04**
9 **anyone mention any reports in connection with 02:04**
10 **the Halloween incident? 02:04**
11 MR. NOVIKOFF: Note my objection to 02:04
12 form. 02:04
13 A. Basically just the incident report 02:04
14 that was written up. 02:04
15 **Q. And who mentioned something to you 02:04**
16 **about that? 02:04**
17 A. No one mentioned it, but it was 02:04
18 standard practice. Whatever happened, they 02:04
19 would write up a report of what happened and 02:05
20 they would put it in the computer. 02:05
21 **Q. So are you assuming that that was 02:05**
22 **done in connection with the Halloween incident? 02:05**
23 MR. NOVIKOFF: Objection. He has 02:05
24 already testified to what his knowledge is 02:05
25 of the incident, but you can answer. 02:05
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1 **Moran**
2 A. Yes, it's standard practice. If you 02:05
3 go to any incident, you write up a field report 02:05
4 and put it in the computer. 02:05
5 **Q. Do you know who or what people wrote 02:05**
6 **reports in connection with the Halloween 02:05**
7 **incident? 02:05**
8 A. No. 02:05
9 MR. NOVIKOFF: Objection. 02:05
10 You can answer. 02:05
11 **Q. Earlier you had testified that as 02:05**
12 **police dispatcher there is a desk at the police 02:05**
13 **station with a computer on it. Was that your 02:05**
14 **testimony? 02:05**
15 MR. NOVIKOFF: Ari, his testimony is 02:05
16 his testimony. Just ask him a question. 02:05
17 **Q. Is there a computer on the desk that 02:05**
18 **you use as police dispatcher? 02:05**
19 A. Yes. 02:05
20 **Q. Is that computer connected to the 02:05**
21 **Internet? 02:05**
22 A. Yes. 02:05
23 **Q. Are there any other computers 02:05**
24 **connected to the Internet in the police 02:05**
25 **station? 02:05**
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1 **Moran**
2 A. Yes. 02:05
3 **Q. What other computers are those? 02:05**
4 A. George's computer and there is a 02:05
5 second computer on that desk. 02:06
6 **Q. I'm sorry? 02:06**
7 A. There is two computers, three total. 02:06
8 **Q. And have you ever seen anyone other 02:06**
9 **than George using George's computer? 02:06**
10 A. Yes. 02:06
11 **Q. Who else had you seen using that 02:06**
12 **computer? 02:06**
13 A. I have used it myself. If someone 02:06
14 was on the desk, I had to do a report, I would 02:06
15 go in the back and use his to log on. Other 02:06
16 officers that were on duty would use it. 02:06
17 **Q. And have you ever seen anyone using 02:06**
18 **the second computer in the back? 02:06**
19 A. Yes. 02:06
20 **Q. Who have you seen using that 02:06**
21 **computer? 02:06**
22 A. Paul Trosko. When we were busy, we 02:06
23 would use multiple computers. 02:06
24 **Q. And do you know what Paul Trosko was 02:06**
25 **using the computer for? 02:07**
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1 **Moran**
2 A. The SJS data entry system we use for 02:07
3 the field reports, incident reports. 02:07
4 **Q. Do you know what SJS stands for? 02:07**
5 A. Spectrum Justice System. 02:07
6 **Q. And is that -- when you say "log 02:07**
7 **in," is that something that is logging in to a 02:07**
8 **computer somewhere else or just internal to the 02:07**
9 **station? 02:07**
10 A. It's its own like software program 02:07
11 where we each have our own main password to log 02:07
12 in to our profile to put the data in. 02:07
13 **Q. Is there any log-in that's required 02:07**
14 **to be able to run a search for prior warrants 02:07**
15 **or other criminal history information? 02:08**
16 A. Yeah. For -- to do like background 02:08
17 checks? 02:08
18 **Q. Sure. 02:08**
19 A. Yes. There is two programs we use; 02:08
20 the state -- New York State DMV where we log in 02:08
21 to run like licenses, and then there is this 02:08
22 thing called E-Justice where we have our own 02:08
23 name and a password and a key fob that you have 02:08
24 to log in to access to do -- to run background 02:08
25 checks. 02:08
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1 Moran
2 **Q. Have you used both of those programs** 02:08
3 **at Ocean Beach?** 02:08
4 A. Yes. 02:08
5 **Q. Currently do you have your own** 02:08
6 **log-in password for both of those programs?** 02:08
7 A. Yes. 02:08
8 **Q. Did you use either of those programs** 02:08
9 **when you were a dockmaster?** 02:08
10 A. No. 02:08
11 **Q. Did you require any kind of license** 02:08
12 **or certification to obtain your own user name** 02:08
13 **or password for either of those programs?** 02:08
14 A. We had to take like a written test, 02:09
15 seminar -- like an overview and take a written 02:09
16 test. 02:09
17 **Q. When did you take that test?** 02:09
18 A. Last summer. The only test is just 02:09
19 for the -- can I clarify? 02:09
20 **Q. Please.** 02:09
21 A. Is for the E-Justice terminal, 02:09
22 because SJS is its own internal program, but 02:09
23 the E-Justice goes through the state, so... 02:09
24 **Q. Do you remember what month you took** 02:09
25 **that test?** 02:09
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1 Moran
2 MR. GRAFF: Summer '06, yes. 02:10
3 A. I can't recall right now. 02:10
4 **Q. Have you ever seen anyone who is not** 02:10
5 **an OBPD officer using any of the computers in** 02:10
6 **the Ocean Beach police station?** 02:10
7 MR. NOVIKOFF: When you say "OBPD 02:11
8 officer," you are also including 02:11
9 dispatchers in that category? 02:11
10 MR. GRAFF: Yes, I am including 02:11
11 dispatchers. 02:11
12 A. I can't recall right now. 02:11
13 **Q. Are there any computers in the Ocean** 02:11
14 **Beach police barracks?** 02:11
15 A. No. 02:11
16 **Q. Have there ever been, as far as you** 02:11
17 **know?** 02:11
18 A. Not to my knowledge. 02:11
19 **Q. Is there any sort of video** 02:11
20 **surveillance program -- system in the Ocean** 02:11
21 **Beach police station?** 02:11
22 A. Yes. 02:11
23 **Q. And when was that system installed,** 02:11
24 **if you know?** 02:11
25 MR. NOVIKOFF: Objection. 02:11
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1 **Moran**
2 A. The annual meeting, probably April 02:09
3 or May. 02:09
4 **Q. And prior to April or May had you** 02:09
5 **ever used the justice system?** 02:09
6 A. Yes. 02:09
7 **Q. And when was the most recent time** 02:09
8 **prior to April '06 that you used it?** 02:09
9 A. Used it last summer, this summer. 02:10
10 So two years. Two seasons. 02:10
11 **Q. I may have misspoken. I'm sorry. I** 02:10
12 **don't mean to ask the same question twice. You** 02:10
13 **obtained the license did you say in the '06** 02:10
14 **April meeting or am I confusing that?** 02:10
15 A. It would be -- 02:10
16 MR. NOVIKOFF: Note my objection. 02:10
17 You can answer. 02:10
18 A. -- the '07. 02:10
19 **Q. So after -- a year after the** 02:10
20 **plaintiffs were let go?** 02:10
21 A. Yes. 02:10
22 **Q. And in '06 did you ever use the** 02:10
23 **E-Justice system?** 02:10
24 MR. NOVIKOFF: When you say '06, you 02:10
25 mean '06 season -- 02:10
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1 Moran
2 Foundation. 02:11
3 Don't guess. 02:11
4 A. I don't -- I can't recall when it 02:11
5 was installed. 02:11
6 **Q. Over the entire span of your** 02:11
7 **employment at Ocean Beach, did you ever learn** 02:11
8 **or was it ever communicated to you that there** 02:12
9 **had been an upgrade or a change in the nature** 02:12
10 **of the video surveillance system?** 02:12
11 MR. NOVIKOFF: Objection. 02:12
12 A. Yes. 02:12
13 **Q. And when did you learn of that?** 02:12
14 A. I can't recall the exact time and 02:12
15 date. 02:12
16 **Q. Do you recall the season?** 02:12
17 A. No. 02:12
18 **Q. Do you recall where you heard that?** 02:12
19 A. No. 02:12
20 **Q. Do you recall ever discussing it** 02:12
21 **with anyone?** 02:12
22 A. I asked George about it, because he 02:12
23 showed me how to use it when it was installed. 02:12
24 **Q. And what did he say about it?** 02:12
25 A. He just showed me what to do with 02:12
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1 Moran
2 the -- basically the cameras, where the cameras 02:12
3 are at, and there is one that you can zoom 02:12
4 around with a joy stick, how to use that, zoom 02:12
5 in, zoom out, the basics of it. 02:12
6 **Q. And did he communicate to you why 02:12**
7 **that system had been installed? 02:12**
8 A. I know he said that due to the old 02:13
9 surveillance was outdated, they put a new one 02:13
10 in. 02:13
11 **Q. And were you aware prior to that 02:13**
12 **time that there had been what you referred to 02:13**
13 **as the old surveillance system? 02:13**
14 A. Yes. There was an older one in the 02:13
15 station that was there. 02:13
16 **Q. Did you ever see any video that was 02:13**
17 **recorded on that older system? 02:13**
18 A. No. 02:13
19 **Q. Did you ever hear anyone in the 02:13**
20 **department talking about any video recorded on 02:13**
21 **that system? 02:13**
22 A. No. 02:13
23 **Q. Is there any audio recording or 02:13**
24 **surveillance system anywhere in the Ocean Beach 02:13**
25 **police station? 02:13**
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1 Moran
2 A. It's the new video system. 02:14
3 **Q. Other than that new video system, 02:14**
4 **any other audio recording or surveillance 02:14**
5 **system in George Hesse's office? 02:14**
6 MR. NOVIKOFF: Objection. 02:14
7 A. No. That's it. 02:14
8 **Q. Do you know if George Hesse had his 02:14**
9 **own listening device or recording system that 02:14**
10 **he installed in his office? 02:14**
11 A. No. 02:14
12 **Q. Do you know someone by the name of 02:14**
13 **Ian Levine? 02:14**
14 A. Yes. 02:14
15 **Q. Who is Ian Levine? 02:14**
16 A. He lives out in Ocean Beach, one of 02:15
17 the residents. 02:15
18 **Q. Did you ever have an opinion as to 02:15**
19 **whether Ian Levine and George Hesse were 02:15**
20 **friends? 02:15**
21 MR. NOVIKOFF: Note my objection. 02:15
22 It's also palpably irrelevant, but you can 02:15
23 answer. 02:15
24 A. I don't know. 02:15
25 **Q. Where does Ian Levine work? 02:15**
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1 Moran
2 MR. NOVIKOFF: Objection. 02:13
3 A. Yes. 02:13
4 **Q. And was that installed at the same 02:13**
5 **time as the new video system? 02:13**
6 A. Yes. 02:13
7 **Q. Prior to that time was there any 02:13**
8 **audio surveillance system? 02:14**
9 A. No. 02:14
10 MR. NOVIKOFF: Objection to form. 02:14
11 Foundation. 02:14
12 **Q. Do you know whether there at any 02:14**
13 **point was ever any audio recording or 02:14**
14 **surveillance system in George Hesse's office? 02:14**
15 MR. NOVIKOFF: Foundation. 02:14
16 Objection. 02:14
17 A. Repeat your question. 02:14
18 **Q. Do you know if there was ever any 02:14**
19 **audio surveillance or recording system in 02:14**
20 **George Hesse's office? 02:14**
21 MR. NOVIKOFF: Objection. 02:14
22 A. When? What time? 02:14
23 **Q. At any point. 02:14**
24 A. Yeah. 02:14
25 **Q. And what are you referring to? 02:14**
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1 Moran
2 MR. NOVIKOFF: Presently? 02:15
3 MR. GRAFF: Presently. 02:15
4 MR. NOVIKOFF: If you know, answer. 02:15
5 A. I know he did satellite systems, 02:15
6 installed satellite TVs. Other than that -- 02:15
7 and he runs a bed and breakfast with his 02:15
8 father, but present day, I don't know what he 02:15
9 does present day. 02:15
10 **Q. Do you know someone by the name of 02:15**
11 **Mitch Burns? 02:15**
12 A. Yes. 02:15
13 **Q. Who is Mitch Burns? 02:15**
14 A. He is a resident of the Village. 02:15
15 **Q. Did you ever see Mitch Burns in the 02:15**
16 **Ocean Beach police station? 02:16**
17 A. A couple of times. 02:16
18 **Q. And what did you see him doing on 02:16**
19 **those times? 02:16**
20 A. Just asked if George was available. 02:16
21 **Q. And do you remember if George was 02:16**
22 **available? 02:16**
23 A. Not that I can recall. 02:16
24 **Q. Did Mitch Burns ask you if George 02:16**
25 **was available? 02:16**
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1 Moran
2 A. Yes. 02:16
3 Q. On how many times, if more than 02:16
4 once, did he ask you that? 02:16
5 MR. NOVIKOFF: Objection. If you 02:16
6 understand the question. 02:16
7 A. Can you repeat yourself. 02:16
8 Q. Was there more than one occasion 02:16
9 when Mitch Burns asked you at the police 02:16
10 station if George Hesse was available? 02:16
11 A. Yes. 02:16
12 Q. On how many total occasions? 02:16
13 A. That I can't recall. 02:16
14 Q. Would you think it was more than ten 02:16
15 occasions? 02:16
16 A. I don't know. 02:16
17 Q. And when was the most recent time 02:16
18 that that happened? 02:16
19 A. I can't recall that. 02:16
20 Q. When Ian Levine asked you -- I'm 02:16
21 sorry. 02:17
22 When Mitch Burns asked you the most 02:17
23 recent time if George Hesse was available, do 02:17
24 you remember what he said? 02:17
25 A. If he was there, he was there. If 02:17
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1 Moran
2 not -- if he was in that station, he was there. 02:17
3 If he wasn't, he was in the street on patrol. 02:17
4 Q. Do you know why -- did Mitch Burns 02:17
5 ever communicate to you why he was looking for 02:17
6 George Hesse? 02:17
7 A. No. 02:17
8 Q. Did George Hesse ever say anything 02:17
9 to you about Mitch Burns? 02:17
10 A. No. 02:17
11 Q. On those occasions when you would 02:17
12 tell Mitch Burns that George Hesse was not 02:17
13 available, what would Mitch Burns do at that 02:17
14 point? 02:17
15 MR. NOVIKOFF: Each and every 02:17
16 occasion? 02:17
17 MR. GRAFF: If it was not the same 02:17
18 on every occasion, let me know. 02:17
19 MR. NOVIKOFF: Okay. Note my 02:17
20 objection. 02:17
21 You can answer. 02:17
22 A. If he stopped in if George was 02:17
23 there, he was there. If he wasn't, he would be 02:17
24 on the street. He stopped in the station and 02:17
25 said if George was here. I'd say either he is 02:18
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1 Moran
2 or he isn't. If he wasn't, he would be out on 02:18
3 patrol somewhere. 02:18
4 Q. And on those occasions when George 02:18
5 Hesse was there, do you recall whether you ever 02:18
6 saw Mitch Burns speak to George Hesse? 02:18
7 A. Yes. 02:18
8 Q. Would they speak in George Hesse's 02:18
9 office? 02:18
10 A. Yes. 02:18
11 Q. How many occasions can you remember 02:18
12 Mitch Burns and George Hesse speaking in George 02:18
13 Hesse's office? 02:18
14 A. I can't recall that. 02:18
15 Q. Did either George Hesse or Mitch 02:18
16 Burns ever say anything to you about the 02:18
17 subject of their meetings or conversations? 02:18
18 A. No. 02:18
19 Q. Did anyone else ever say anything to 02:18
20 you about the subject of any communications 02:18
21 between Mitch Burns and George Hesse? 02:18
22 A. No. 02:18
23 Q. Did you ever see Mitch Burns use a 02:18
24 computer in the Ocean Beach police station? 02:18
25 A. Not that I can recall. 02:18
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1 Moran
2 Q. Did you ever see Ian Levine in the 02:18
3 Ocean Beach police station? 02:18
4 A. Yes. 02:18
5 Q. And did you see him in the Ocean 02:18
6 Beach police station on more than one separate 02:19
7 occasion? 02:19
8 A. Ian, he is also an EMT, if I recall, 02:19
9 so he would -- if he was on duty, he would come 02:19
10 to the police station. If there was a medical 02:19
11 call in the police station, he would come and 02:19
12 respond with the ambulance, so in an official 02:19
13 capacity. 02:19
14 Q. Do you know somebody by the name of 02:19
15 JT who worked at CJs bar? 02:19
16 A. Yes. 02:19
17 Q. Does JT have a full name? 02:19
18 A. I don't know. 02:19
19 MR. NOVIKOFF: I would think most 02:19
20 people do. 02:19
21 A. I don't know. 02:19
22 Q. Did you ever see JT in the Ocean 02:19
23 Beach police station? 02:19
24 A. Yes. I don't know when or the 02:19
25 extent. 02:19
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1 Moran
2 **Q. Did you see him more than once? 02:19**
3 A. I can't recall. 02:19
4 **Q. Did you speak with him on any 02:19**
5 **occasion in the Ocean Beach police station? 02:19**
6 A. Yes. 02:19
7 **Q. And did he communicate anything 02:20**
8 **about the nature of his purpose in being there? 02:20**
9 A. Just to see if George was available, 02:20
10 if he was there. If he wasn't, he wasn't. 02:20
11 **Q. And on any occasions did you ever 02:20**
12 **see JT go into George Hesse's office to speak 02:20**
13 **to George Hesse? 02:20**
14 A. Yes. 02:20
15 **Q. And did anyone ever communicate 02:20**
16 **anything to you about the nature of those 02:20**
17 **communications? 02:20**
18 A. No. 02:20
19 **Q. Did you ever discuss Mitch Burns 02:20**
20 **with Tyree Bacon? 02:20**
21 A. No. 02:20
22 **Q. Did you ever discuss JT with Tyree 02:20**
23 **Bacon? 02:20**
24 A. No. 02:20
25 **Q. Did you ever discuss Mitch Burns 02:20**
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1 Moran
2 **with Kevin Lamm? 02:20**
3 A. No. 02:20
4 **Q. Did you ever discuss JT with Kevin 02:20**
5 **Lamm? 02:20**
6 A. No. 02:20
7 **Q. Did you ever discuss Ian Levine with 02:20**
8 **Ty Bacon? 02:20**
9 A. No. 02:21
10 **Q. Did you ever discuss Ian Levine with 02:21**
11 **Kevin Lamm? 02:21**
12 A. No. 02:21
13 **Q. Has anyone ever made any statements 02:21**
14 **to you indicating any kind of connection 02:21**
15 **between Mitch Burns and any illegal drugs? 02:21**
16 MR. NOVIKOFF: Objection. 02:21
17 You can answer. 02:21
18 A. No. 02:21
19 **Q. Same question with respect to JT? 02:21**
20 A. No. 02:21
21 **Q. Same question with respect to Ian 02:21**
22 **Levine? 02:21**
23 A. No. 02:21
24 **Q. Do you know where evidence is 02:21**
25 **currently stored in the Ocean Beach Police 02:21**
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1 Moran
2 **Department? 02:21**
3 A. Yes. 02:21
4 **Q. Where is that stored? 02:21**
5 A. We have two places. For -- what 02:21
6 kind of evidence? What type of evidence? 02:21
7 **Q. If you could tell me what kind is 02:21**
8 **stored in both of those places. 02:21**
9 A. There is two things. There is a 02:22
10 safe in the front for found property, so let's 02:22
11 say if you lose something, we will record it in 02:22
12 the blotter and make a lost property receipt, 02:22
13 it will go in the front safe, and then in the 02:22
14 back room they have a black cabinet that has 02:22
15 all the inventory and it goes in the black -- 02:22
16 back room. 02:22
17 **Q. And did you ever put any evidence 02:22**
18 **into that back room? 02:22**
19 A. No. 02:22
20 **Q. Have you ever seen the evidence 02:22**
21 **that's in that back room? 02:22**
22 A. No, just in the black storage 02:22
23 cabinet. 02:22
24 **Q. Do you know whether at any point 02:22**
25 **during your employment at Ocean Beach evidence 02:22**
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1 Moran
2 **was ever stored anywhere other than those two 02:22**
3 **places? 02:22**
4 A. No. 02:22
5 **Q. Do you know if George Hesse ever 02:22**
6 **kept any sort of evidence in his own office? 02:22**
7 A. No idea. 02:22
8 **Q. Did George Hesse ever make any 02:22**
9 **statements to you about Samuel Gilberd? 02:23**
10 MR. NOVIKOFF: I am going to -- 02:23
11 MR. CONNOLLY: Objection. 02:23
12 MR. NOVIKOFF: You could ask this 02:23
13 question. Why you are asking it, I don't 02:23
14 know, but I think we are on tricky ground 02:23
15 here, so you can answer the question. 02:23
16 A. No. 02:23
17 MR. NOVIKOFF: There we go. 02:23
18 **Q. Did George Hesse ever make any 02:23**
19 **statement to you about any of the plaintiffs 02:23**
20 **wearing a wire? 02:23**
21 A. Not that I can recall. 02:23
22 **Q. And when I say "wearing a wire," 02:23**
23 **just so we are clear, do you understand what I 02:23**
24 **mean by that? 02:23**
25 A. Yes. 02:23
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1 Moran
2 **Q. What does wearing a wire mean? 02:23**
3 A. It would be when someone would be 02:23
4 wearing a microphone to get a tape for -- 02:23
5 wearing a mike -- being taped, tape recording a 02:23
6 conversation. 02:23
7 **Q. Did anyone ever make any statements 02:23**
8 **to you about any of the plaintiffs and wearing 02:24**
9 **a wire? 02:24**
10 MR. NOVIKOFF: Other than counsel? 02:24
11 MR. GRAFF: Other than counsel. 02:24
12 A. Not that I can recall. 02:24
13 **Q. Did you ever make any statements to 02:24**
14 **anyone else about any of the plaintiffs and a 02:24**
15 **wire? 02:24**
16 MR. NOVIKOFF: Other than to 02:24
17 counsel? 02:24
18 MR. GRAFF: Yes. 02:24
19 A. Not that I can recall. 02:24
20 **Q. Did George Hesse ever make any 02:24**
21 **statements to you about anyone else in Ocean 02:24**
22 **Beach wearing a wire other than plaintiffs? 02:24**
23 A. Not that I can recall. 02:24
24 **Q. Did anyone else ever make any 02:24**
25 **statements to you about anyone in the Ocean 02:24**
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1 Moran
2 the recordings that I am going to play are 02:28
3 excerpts from a longer recording that was 02:28
4 previously produced to all parties in this 02:28
5 case. The court reporter will be labeling 02:28
6 the specific disks that I play with 02:28
7 exhibits so that we can have a clear record 02:28
8 of what was played. I also have copies of 02:28
9 the disks containing any excerpts that I 02:28
10 play for counsel. 02:28
11 MR. NOVIKOFF: So now let me just 02:28
12 understand this. The court reporter is 02:28
13 going to transcribe -- 02:28
14 MR. GRAFF: No, the court reporter 02:28
15 will not transcribe it. It's going to be 02:28
16 on the recording. 02:28
17 MR. NOVIKOFF: Well, I understand 02:28
18 that you are playing apparently excerpts of 02:28
19 one or more recordings, which I presume my 02:28
20 client was involved in in terms of being 02:29
21 one of the participants to the recordings. 02:29
22 I also understand that what you are 02:29
23 claiming has been produced, that's your 02:29
24 representation. I am aware that you 02:29
25 introduced to prior counsel a disk 02:29
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1 Moran
2 **Beach Police Department wearing a wire? 02:24**
3 A. Not that I can recall. 02:24
4 **Q. Did Kevin Lamm ever make any 02:24**
5 **statements to you about anyone wearing a wire? 02:24**
6 A. Not that I can recall. 02:24
7 **Q. Did anyone ever make any statement 02:24**
8 **or suggestion to you or in your presence that 02:25**
9 **any of the plaintiffs may have been let go 02:25**
10 **because of something to do with a wire? 02:25**
11 MR. NOVIKOFF: Objection to form. 02:25
12 A. What? 02:25
13 **Q. Did anyone ever say anything that 02:25**
14 **you heard about the reason that plaintiffs were 02:25**
15 **let go being something to do with the wire? 02:25**
16 MR. NOVIKOFF: Note my objection. 02:25
17 A. No. 02:25
18 **Q. Did anyone ever make any statements 02:25**
19 **to you that made reference to Officer Hardman 02:25**
20 **and a wire? 02:25**
21 A. Not that I -- no, I can't recall. 02:25
22 MR. GRAFF: Off the record. 02:26
23 (Discussion off the record.) 02:26
24 MR. GRAFF: I will note for the 02:28
25 record as I mentioned when we were off that 02:28
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1 Moran
2 containing numerous recordings and they 02:29
3 were, in fact, I think identified by 02:29
4 various track numbers. Are you going to 02:29
5 provide us with before you play this tape 02:29
6 exactly what track this is coming from? 02:29
7 MR. GRAFF: I can get you that 02:29
8 information. I can tell you that 02:29
9 everything I am going to play is from a 02:29
10 disk that was Bates stamped P 919. 02:29
11 MR. NOVIKOFF: How are we going to 02:29
12 be able to know from the transcript what 02:29
13 this witness is answering if it's not 02:30
14 transcribed? Because then all you are 02:30
15 going to have in this record is presumably 02:30
16 the court reporter is going to say "excerpt 02:30
17 from audio played," you are going to ask a 02:30
18 question and my client, Mr. Moran, is going 02:30
19 to be answering your question without any 02:30
20 reference whatsoever to what was said on 02:30
21 the audio. So when this is a record either 02:30
22 at trial or for any other reason, the 02:30
23 reader of the record will have absolutely 02:30
24 no idea what was being stated in the 02:30
25 excerpt. 02:30
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<p>1 Moran</p> <p>2 MR. GRAFF: Okay. To the extent 02:30</p> <p>3 that it's possible -- 02:30</p> <p>4 MR. NOVIKOFF: I am going to have to 02:30</p> <p>5 object then, unless you have a written 02:30</p> <p>6 transcript of what we are going to be 02:30</p> <p>7 looking at, to doing this. Now, if that 02:30</p> <p>8 means we come back another time with a 02:31</p> <p>9 proper transcript, then I'm fine with that, 02:31</p> <p>10 but I think that it's unfair for you to 02:31</p> <p>11 have an excerpt played and then ask my 02:31</p> <p>12 client questions and then expect me or 02:31</p> <p>13 Mr. Connolly to remember what exactly was 02:31</p> <p>14 said and then to either go back with our 02:31</p> <p>15 own tapes to see what was said beforehand 02:31</p> <p>16 or what was after so that the excerpt would 02:31</p> <p>17 be in context. 02:31</p> <p>18 MR. GRAFF: Okay. To address that 02:31</p> <p>19 in part, I will ask the witness to tell me 02:31</p> <p>20 in his words what he heard spoken so that 02:31</p> <p>21 what he heard and is responding to will be 02:31</p> <p>22 in the transcript. 02:31</p> <p>23 MR. NOVIKOFF: Ari, that doesn't 02:31</p> <p>24 fly, because -- and respectfully, I am not 02:31</p> <p>25 trying to be hard here, but what you are 02:31</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Moran</p> <p>2 asking this witness to do is to testify as 02:31</p> <p>3 to what he heard on the audio. It may not 02:31</p> <p>4 be completely accurate, given the speed in 02:32</p> <p>5 which the recording is going on, the manner 02:32</p> <p>6 in which it's being said and the manner in 02:32</p> <p>7 which it's being recorded, and if you are 02:32</p> <p>8 going to ask my client to do that, then no 02:32</p> <p>9 disrespect to the court reporter, the court 02:32</p> <p>10 reporter is probably more capable than my 02:32</p> <p>11 client of hearing and transcribing what was 02:32</p> <p>12 said. 02:32</p> <p>13 MR. GRAFF: I think that the 02:32</p> <p>14 recordings and my questions will be aimed 02:32</p> <p>15 at whether the recording refreshes 02:32</p> <p>16 Mr. Moran's recollection of anything 02:32</p> <p>17 independent of what's here and my questions 02:32</p> <p>18 will then be based on Mr. Moran's 02:32</p> <p>19 independent recollection. Does that 02:32</p> <p>20 address any of your objections? 02:32</p> <p>21 MR. NOVIKOFF: It does one. I mean, 02:32</p> <p>22 I don't know what you are asking him to 02:32</p> <p>23 refresh his recollection about. 02:32</p> <p>24 MR. GRAFF: I will ask him first 02:32</p> <p>25 question "does what you heard refresh your 02:32</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 Moran</p> <p>2 recollection of anything." 02:33</p> <p>3 MR. NOVIKOFF: Kevin, if you want 02:33</p> <p>4 to -- 02:33</p> <p>5 MR. CONNOLLY: I think we are still 02:33</p> <p>6 faced with the same problem if whoever is 02:33</p> <p>7 reading the transcript doesn't have 02:33</p> <p>8 reference. I mean, counsel has indicated 02:33</p> <p>9 that he is not ruling out questions in this 02:33</p> <p>10 regard. It's just under the setup we have 02:33</p> <p>11 today. 02:33</p> <p>12 MR. NOVIKOFF: I will represent that 02:33</p> <p>13 if you are able to either produce to us 02:33</p> <p>14 prior to the deposition or at the 02:33</p> <p>15 deposition, I don't care, a transcript of 02:33</p> <p>16 what is being shown in context and/or tell 02:33</p> <p>17 us exactly what track we are talking about 02:33</p> <p>18 and the time, the second and the minute, 02:33</p> <p>19 because that's how it was produced to us, 02:33</p> <p>20 then there would be some type of ability 02:33</p> <p>21 for the reader of the transcript to know 02:33</p> <p>22 exactly what was being spoken on the audio. 02:33</p> <p>23 MR. GRAFF: Okay. So if I can give 02:34</p> <p>24 you the track and the minute, will that be 02:34</p> <p>25 sufficient? 02:34</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Moran</p> <p>2 MR. NOVIKOFF: I think for the -- 02:34</p> <p>3 MR. CONNOLLY: I think for Ari's 02:34</p> <p>4 questions if he gives you the track, but 02:34</p> <p>5 there is also concern about having the 02:34</p> <p>6 recording transcribed. 02:34</p> <p>7 MR. NOVIKOFF: I mean, at least then 02:34</p> <p>8 I can identify it, but the problem here is 02:34</p> <p>9 that, again, unless we are going to be 02:34</p> <p>10 constantly rewinding and going forward and 02:34</p> <p>11 going back, you are playing an audio for 02:34</p> <p>12 him without a written transcript. You are 02:34</p> <p>13 going to ask him some questions and then 02:34</p> <p>14 either Mr. Connolly or I are going to have 02:34</p> <p>15 to then try to remember exactly what was 02:34</p> <p>16 said on the audio in order to then perhaps 02:34</p> <p>17 question Mr. Moran. How many excerpts are 02:34</p> <p>18 you doing? 02:34</p> <p>19 MR. GRAFF: Two. And they are both 02:34</p> <p>20 shorter than two minutes. I think that 02:34</p> <p>21 this will be fairly quick. 02:34</p> <p>22 MR. NOVIKOFF: I think we can -- if 02:34</p> <p>23 you can get me before you do this the track 02:34</p> <p>24 and the period of time on the track that 02:34</p> <p>25 it's going to be played, whether it's -- 02:35</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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<p>1 Moran</p> <p>2 for example, if it's track 3, 43rd second 02:35</p> <p>3 to minute and 12, then the court reporter 02:35</p> <p>4 can put that in and then whoever is reading 02:35</p> <p>5 this will have an understanding, because we 02:35</p> <p>6 would then have to agree to attach as an 02:35</p> <p>7 exhibit to the deposition the transcript of 02:35</p> <p>8 that audio, this way the reader of the 02:35</p> <p>9 transcript will have accessible what 02:35</p> <p>10 exactly was said on the audio. 02:35</p> <p>11 MR. CONNOLLY: You would also need 02:35</p> <p>12 to attach as an exhibit the disk. 02:35</p> <p>13 MR. GRAFF: That's what I had in 02:35</p> <p>14 mind originally, and so I am clear, if I 02:35</p> <p>15 can get you the track and the time number, 02:35</p> <p>16 but not a transcript -- 02:35</p> <p>17 MR. NOVIKOFF: We can go forward 02:35</p> <p>18 with the questioning. 02:35</p> <p>19 MR. CONNOLLY: Based upon your 02:35</p> <p>20 representation that it's two tracks of 02:35</p> <p>21 approximately two minutes. 02:35</p> <p>22 MR. NOVIKOFF: Right. 02:35</p> <p>23 MR. GRAFF: Okay. Let's take a 02:36</p> <p>24 break. I think I can get that information. 02:36</p> <p>25 (Recess was taken from 2:36 to 02:36</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Moran</p> <p>2 2:54.) 02:36</p> <p>3 MR. NOVIKOFF: After considerable 02:36</p> <p>4 discussion with Mr. Graff and Mr. Connolly 02:54</p> <p>5 and I, we have agreed to go forward with 02:54</p> <p>6 the examination with regard to two excerpts 02:54</p> <p>7 from audio tapes which Mr. Graff has 02:54</p> <p>8 represented have already been produced so 02:54</p> <p>9 that he can inquire with the witness with 02:55</p> <p>10 regard to what we will be listening to. 02:55</p> <p>11 The representation has been made that these 02:55</p> <p>12 excerpts are approximately two minutes in 02:55</p> <p>13 length each. We will be walking out today 02:55</p> <p>14 with a disk or disks containing both 02:55</p> <p>15 excerpts and that the court reporter will 02:55</p> <p>16 undertake her best efforts to transcribe 02:55</p> <p>17 what we will hear, although she will not 02:55</p> <p>18 certify that as to the accuracy of these 02:55</p> <p>19 two audio tape excerpts. 02:55</p> <p>20 Mr. Graff, does that represent what 02:55</p> <p>21 we have agreed to? 02:55</p> <p>22 MR. GRAFF: Yes, and just in case 02:55</p> <p>23 your copies get lost, we will be actually 02:55</p> <p>24 marking the disks that I play. 02:55</p> <p>25 The first excerpt is contained on 02:55</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 Moran</p> <p>2 the disk with the case caption on it. I 02:55</p> <p>3 have copies for Mr. Connolly and 02:56</p> <p>4 Mr. Novikoff. 02:56</p> <p>5 MR. NOVIKOFF: So also what we will 02:56</p> <p>6 get from you is at least an identification 02:56</p> <p>7 of what track it came from and the second 02:57</p> <p>8 and the period of time within that track 02:57</p> <p>9 that these disks that had audio we are 02:57</p> <p>10 listening to. 02:57</p> <p>11 MR. GRAFF: Yes. 02:57</p> <p>12 MR. NOVIKOFF: Okay. 02:57</p> <p>13 (Audio excerpt was played.) 02:57</p> <p>14 *** Uncertified transcription *** 02:57</p> <p>15 VOICE 1: Well, what the hell did he 02:57</p> <p>16 say in that meeting? 02:57</p> <p>17 VOICE 2: I don't know. 02:57</p> <p>18 VOICE 1: Because I remember calling 02:57</p> <p>19 you that night to find out what was said at 02:57</p> <p>20 the meeting and then something with this 02:57</p> <p>21 wire and shit with Eddie. What the hell? 02:57</p> <p>22 VOICE 2: (Inaudible) I think he 02:57</p> <p>23 said -- (inaudible) -- wear a wire -- 02:57</p> <p>24 (inaudible) -- Talking about wearing a wire 02:57</p> <p>25 (inaudible). 02:57</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Moran</p> <p>2 VOICE 1: Who was wearing the wire 02:57</p> <p>3 or was gonna wear the wire or whatever with 02:57</p> <p>4 this wire? 02:57</p> <p>5 VOICE 2: (Inaudible) was gonna wear 02:57</p> <p>6 a wire -- (inaudible) -- I don't know who 02:58</p> <p>7 did it or -- (inaudible) -- I don't know -- 02:58</p> <p>8 (inaudible). 02:58</p> <p>9 *** Uncertified transcription *** 02:58</p> <p>10 MR. NOVIKOFF: I am going to state 02:58</p> <p>11 that before this witness will answer 02:58</p> <p>12 questions, you need to lay a foundation 02:58</p> <p>13 with regard to whether or not he even 02:58</p> <p>14 understood what was being said on this tape 02:58</p> <p>15 from the audio standpoint. 02:58</p> <p>16 Q. Mr. Moran, were you able to identify 02:58</p> <p>17 either of the voices on that tape? 02:59</p> <p>18 A. Yes. 02:59</p> <p>19 Q. Were you able to identify both? 02:59</p> <p>20 A. Yes. 02:59</p> <p>21 Q. Whose voices were they? 02:59</p> <p>22 A. Myself and Kevin Lamm. 02:59</p> <p>23 Q. And were you able to understand 02:59</p> <p>24 anything that you said in your voice on the 02:59</p> <p>25 tape? 02:59</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

1 Moran
2 A. No. 02:59
3 **Q. Were you able to hear the word 02:59**
4 **"wire" in your voice? 02:59**
5 A. Yes. 02:59
6 **Q. Were you able to hear a reference to 02:59**
7 **something about a guy who got beat up or to 02:59**
8 **Gilberd? 02:59**
9 A. Repeat. What? 02:59
10 **Q. Did you hear a reference to a wire 02:59**
11 **connected to somebody beat up or Gilberd? 02:59**
12 A. No. 02:59
13 **Q. Do you recall the conversation? 02:59**
14 A. No. 02:59
15 **Q. Do you recall that you ever spoke to 02:59**
16 **Kevin Lamm about what was said at a meeting 02:59**
17 **about why they were let go? 02:59**
18 A. No. 02:59
19 MR. NOVIKOFF: Your answer is no. 02:59
20 A. No. 02:59
21 **Q. Do you recall whether anyone ever 02:59**
22 **said anything to you with respect to a reason 03:00**
23 **for plaintiffs being let go having something to 03:00**
24 **do with a wire? 03:00**
25 MR. NOVIKOFF: Objection. Asked and 03:00
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1 Moran
2 voice say the word "wire," so if you are 03:01
3 asking him if he ever believes he said it, 03:01
4 I don't understand the question in light of 03:01
5 the fact that he has already testified that 03:01
6 he heard his voice say the word "wire." 03:01
7 MR. CONNOLLY: Ari, I am going to 03:01
8 request, and you guys can work it out 03:01
9 however you want it, I would like to listen 03:01
10 to it a second time. 03:01
11 MR. GRAFF: I was just going to ask 03:01
12 if he wouldn't mind, I know the quality is 03:01
13 poor, but I am going to play the same 03:01
14 recording once more. 03:01
15 MR. NOVIKOFF: Now I object to that, 03:01
16 Ari, and let me state for the record, you 03:01
17 have now played this audio tape once. The 03:01
18 witness indicated that he does not 03:01
19 understand some of what he said on that 03:01
20 because of the quality of the audio. He 03:01
21 has identified that it's him, he has 03:01
22 identified that it's Kevin Lamm on the 03:01
23 other end, he has answered yes that he did 03:01
24 hear that he used the word "wire." What he 03:01
25 heard does not refresh his recollection as 03:01
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1 Moran
2 answered. He answered that this morning. 03:00
3 I think your question should be, 03:00
4 respectfully, does anything he heard 03:00
5 refresh his recollection, not whether what 03:00
6 he recalled, because he has already 03:00
7 answered that question. 03:00
8 MR. GRAFF: Absolutely. I thought 03:00
9 it was easier than trying to make him 03:00
10 remember his prior testimony. 03:00
11 MR. NOVIKOFF: I am going to object 03:00
12 to the question. 03:00
13 You can answer it. 03:00
14 A. No. 03:00
15 **Q. And does anything here refresh your 03:00**
16 **recollection about that? 03:00**
17 A. No. 03:00
18 **Q. As you sit here today, do you 03:00**
19 **believe that you ever said anything to Kevin 03:00**
20 **Lamm about wearing a wire and George Hesse? 03:00**
21 MR. CONNOLLY: Objection. 03:00
22 MR. NOVIKOFF: Objection. The audio 03:00
23 speaks for itself. The audio clearly 03:00
24 states in his voice, from what I understand 03:00
25 from what the witness said he heard his 03:00
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1 Moran
2 to the conversation. What's the purpose of 03:01
3 playing it again? 03:01
4 MR. GRAFF: I am going to play one 03:02
5 minute and twelve seconds again in case he 03:02
6 is able to hear any more the second time 03:02
7 through. 03:02
8 MR. NOVIKOFF: Well, you should ask 03:02
9 him does he think if you play it again will 03:02
10 it refresh his recollection. If he 03:02
11 doesn't, then I think it is harassment. 03:02
12 **Q. Do you think that if -- 03:02**
13 A. No. 03:02
14 **Q. You think you won't understand 03:02**
15 **anything more? 03:02**
16 A. No. 03:02
17 MR. CONNOLLY: What I am going to 03:02
18 request is to the extent there is going to 03:02
19 be any further questioning of the witness 03:02
20 in this regard, that I be provided an 03:02
21 opportunity to listen to it a second time, 03:02
22 if need be, out of his presence. 03:02
23 MR. NOVIKOFF: That would be 03:02
24 appropriate. 03:02
25 MR. GRAFF: Okay. Well, if 03:02
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<p>1 Moran</p> <p>2 Mr. Moran has testified to as much as he 03:02</p> <p>3 understood from this and doesn't believe 03:02</p> <p>4 that he will be able to hear it more 03:02</p> <p>5 clearly the second time, I am going to not 03:02</p> <p>6 continue with questions. 03:02</p> <p>7 MR. CONNOLLY: Okay, then I won't 03:02</p> <p>8 need to listen to it, but Ari, my concern 03:02</p> <p>9 is that I didn't get a good listen -- I got 03:02</p> <p>10 a good listen. A lot of it I was unable to 03:02</p> <p>11 understand. 03:03</p> <p>12 MR. NOVIKOFF: I will represent that 03:03</p> <p>13 if you go through with any witness word by 03:03</p> <p>14 word in slow motion or whatever, I'm sure 03:03</p> <p>15 any witness will hear better than the first 03:03</p> <p>16 time. Do you understand what I am saying? 03:03</p> <p>17 MR. GRAFF: So then what's your 03:03</p> <p>18 objection -- 03:03</p> <p>19 MR. NOVIKOFF: Well, you are doing 03:03</p> <p>20 it at the same speed. You are not breaking 03:03</p> <p>21 it down. 03:03</p> <p>22 MR. GRAFF: I can pause it at points 03:03</p> <p>23 to ask what he heard. 03:03</p> <p>24 MR. NOVIKOFF: The witness has 03:03</p> <p>25 said -- well, he has answered your 03:03</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Moran</p> <p>2 question. What you do -- I can't 03:03</p> <p>3 physically stop you from putting the disk 03:03</p> <p>4 in the tape recorder and playing it and I 03:03</p> <p>5 can't physically stop you from asking the 03:03</p> <p>6 question. I am objecting to it. 03:03</p> <p>7 MR. GRAFF: So I am going to replay 03:03</p> <p>8 a couple of segments of that minute and 03:03</p> <p>9 twelve seconds subject to Mr. Novikoff's 03:03</p> <p>10 objection. 03:03</p> <p>11 Mr. Connolly, do you need a break to 03:03</p> <p>12 listen to it or do you want to listen to it 03:03</p> <p>13 this time through? 03:03</p> <p>14 MR. CONNOLLY: I would like to 03:03</p> <p>15 listen to it one time before -- I would 03:03</p> <p>16 like to listen to it another time. Then 03:03</p> <p>17 you can do what you need to do in terms of 03:04</p> <p>18 questioning the witness. 03:04</p> <p>19 MR. GRAFF: Okay, and is your 03:04</p> <p>20 "another time" now when I play it or do you 03:04</p> <p>21 want to listen to it privately? 03:04</p> <p>22 MR. CONNOLLY: I want to listen to 03:04</p> <p>23 it privately. Why don't we break and you 03:04</p> <p>24 can play it for me. 03:04</p> <p>25 MR. NOVIKOFF: Well, let's just 03:04</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 Moran</p> <p>2 finish this line of questioning with this 03:04</p> <p>3 witness first. 03:04</p> <p>4 MR. CONNOLLY: But I wanted to be 03:04</p> <p>5 able to hear it so I could follow better. 03:04</p> <p>6 MR. GRAFF: It's up to you. 03:04</p> <p>7 MR. CONNOLLY: It's a minute and 03:04</p> <p>8 twenty seconds. Let him take a bathroom 03:04</p> <p>9 break and let me listen to it. 03:04</p> <p>10 (Recess was taken from 3:04 to 03:04</p> <p>11 3:06.) 03:04</p> <p>12 MR. NOVIKOFF: Let's on the record 03:07</p> <p>13 indicate what's going on. Mr. Graff is 03:08</p> <p>14 going to again play the same recording that 03:08</p> <p>15 he played for Mr. Moran. He is going to 03:08</p> <p>16 play it a second time. Correct? 03:08</p> <p>17 MR. GRAFF: Yes. 03:08</p> <p>18 MR. NOVIKOFF: You don't need to say 03:08</p> <p>19 anything more. Then what you do you do. 03:08</p> <p>20 (Audio excerpt played.) 03:08</p> <p>21 MR. NOVIKOFF: I am going to 03:09</p> <p>22 represent on the record that that last part 03:10</p> <p>23 of the tape that we just heard now the 03:10</p> <p>24 second time was not played the first time, 03:10</p> <p>25 there was a reference to the word 03:10</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Moran</p> <p>2 "Gilberd," and so your question prior to 03:10</p> <p>3 playing it the second time made reference 03:10</p> <p>4 to Gilberd, which my client -- I don't 03:10</p> <p>5 recall what his answer was at the time, but 03:10</p> <p>6 you now played two different -- not two 03:10</p> <p>7 different. You played -- the second 03:10</p> <p>8 recording was different in length and in 03:10</p> <p>9 content than the first recording, that's 03:10</p> <p>10 the only thing I want to represent, and the 03:10</p> <p>11 court reporter, from my understanding, did 03:10</p> <p>12 not take down the last part of the second 03:10</p> <p>13 audio that we heard, which was just an 03:10</p> <p>14 extension of the first recording. 03:10</p> <p>15 MR. GRAFF: The first recording the 03:10</p> <p>16 first time we listened I stopped it at 112. 03:10</p> <p>17 In fact, it runs to 128. It was 03:10</p> <p>18 unintentional. I thought I heard in that 03:10</p> <p>19 first 112 a reference to Gilberd. That's 03:10</p> <p>20 it. 03:10</p> <p>21 MR. NOVIKOFF: Okay. So now your 03:10</p> <p>22 question is now that you have played it a 03:10</p> <p>23 second time -- 03:11</p> <p>24 Q. Mr. Moran, having listened to this a 03:11</p> <p>25 second time, do you have any recollection of 03:11</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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1 Moran
2 what it was that you were talking about in this 03:11
3 portion of the conversation? 03:11
4 MR. NOVIKOFF: And just so the 03:11
5 record is clear, you are asking this 03:11
6 witness if by hearing this audio tape, to 03:11
7 the extent he even understood it, does that 03:11
8 refresh his recollection today as to what 03:11
9 he said to Kevin Lamm whenever he had a 03:11
10 conversation with Kevin Lamm? 03:11
11 A. No. 03:11
12 Q. Does it refresh your recollection as 03:11
13 to whether you said anything to Kevin Lamm 03:11
14 about a wire? 03:11
15 A. No. 03:11
16 Q. Does it refresh your recollection as 03:11
17 to whether you said anything to Kevin Lamm 03:11
18 about Gilberd? 03:11
19 A. No. 03:11
20 Q. Does it refresh your recollection as 03:11
21 to whether you said anything to Kevin Lamm 03:11
22 about some guy being beat up? 03:11
23 A. No. 03:11
24 Q. Does it refresh your recollection as 03:11
25 to whether you ever discussed with anyone at 03:11
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1 Moran
2 in the Village? 03:13
3 VOICE 2: No -- (inaudible) -- I saw 03:13
4 him on Thursday. He is back in the 03:13
5 Village -- (inaudible). 03:14
6 VOICE 1: So what do they think. 03:14
7 They think it was drugs or what? 03:14
8 VOICE 2: (Inaudible). 03:14
9 VOICE 1: Ian? What Ian? 03:14
10 VOICE 2: (Inaudible). 03:14
11 VOICE 1: Oh, Levine? 03:14
12 VOICE 2: Yeah, yeah -- (inaudible). 03:14
13 VOICE 1: He is a what? I'm sorry, 03:14
14 you are breaking up again. 03:14
15 VOICE 2: (Inaudible).
16 VOICE 1: Ian.
17 VOICE 2: (Inaudible).
18 VOICE 1: (Inaudible).
19 VOICE 2: (Inaudible).
20 VOICE 1: Yeah.
21 VOICE 2: (Inaudible).
22 VOICE 1: Oh, something that he 03:14
23 gave -- (inaudible). 03:14
24 VOICE 2: (Inaudible) -- bad 03:14
25 stuff -- (inaudible). 03:14
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1 Moran
2 Ocean Beach in the Police Department the 03:11
3 subject of anyone else wearing a wire? 03:11
4 A. No. 03:11
5 MR. NOVIKOFF: Okay. 03:11
6 MR. GRAFF: That's the end of 03:12
7 questions on that tape. 03:12
8 (Moran Exhibit 6, CD labeled Carter 03:12
9 et al., v. Incorporated Village of Ocean 03:12
10 Beach, et al., Disk C, marked for 03:12
11 identification.) 03:13
12 MR. NOVIKOFF: We would ask the 03:13
13 court reporter to give it her best to try 03:13
14 to transcribe this as well, understanding 03:13
15 that if it's like the last one, it may be 03:13
16 difficult. 03:13
17 (Audio excerpt was played.) 03:13
18 *** Uncertified Transcription *** 03:13
19 VOICE 1: So the last time I spoke 03:13
20 to you was, I don't know, like a month ago. 03:13
21 A month ago you said that JT was MIA from 03:13
22 the Village, huh? 03:13
23 VOICE 2: Yeah -- (inaudible) -- 03:13
24 last month -- (inaudible). 03:13
25 VOICE 1: Okay. So he hasn't been 03:13
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1 Moran
2 VOICE 1: Holy shit, he was selling 03:15
3 bad stuff around that village, huh? 03:15
4 *** Uncertified Transcription *** 03:15
5 (Moran Exhibit 7, CD labeled Carter 03:15
6 et al., v. Incorporated Village of Ocean 03:15
7 Beach, et al., Disk A, marked for 03:15
8 identification.) 03:16
9 Q. Mr. Moran, can you recognize any of 03:16
10 the voices on that recording? 03:16
11 A. Yes. 03:16
12 Q. And what voices did you recognize? 03:16
13 A. Myself and Kevin Lamm. 03:16
14 Q. Did you understand anything of what 03:16
15 you were recorded as saying on that recording? 03:16
16 A. No. 03:16
17 MR. NOVIKOFF: Note my objection to 03:16
18 the form of that question. 03:16
19 Q. Having listened to this recording, 03:16
20 does it refresh your recollection of any 03:17
21 conversation you may have had with Kevin Lamm? 03:17
22 A. No. 03:17
23 Q. Did you hear in your voice the word 03:17
24 "cokehead" once or more times? 03:17
25 A. No. 03:17
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1 Moran
2 **Q. Did you hear any reference to 03:17**
3 **selling drugs or bad shit around the Village? 03:17**
4 MR. NOVIKOFF: To the witness 03:17
5 selling drugs or bad shit around the 03:17
6 village? 03:17
7 MR. GRAFF: No, to those -- 03:17
8 MR. NOVIKOFF: Oh, to those words, 03:17
9 okay. 03:17
10 A. No. The audio was a horrible 03:17
11 quality. 03:17
12 **Q. Did you hear any reference to Ian 03:17**
13 **Levine being George Hesse's friend? 03:17**
14 A. No. 03:17
15 MR. NOVIKOFF: Did he hear any 03:17
16 reference to Ian Levine or did he hear any 03:17
17 reference to -- because I heard reference 03:17
18 to Ian Levine. I don't think I heard 03:17
19 reference to being George's friend. 03:17
20 **Q. Did you hear a reference to Ian 03:17**
21 **Levine? 03:17**
22 A. Yes, I did. 03:17
23 **Q. Did you hear a reference to Ian 03:17**
24 **Levine being George's friend? 03:17**
25 A. No. 03:17
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1 Moran
2 ascertain whether the witness had better 03:18
3 hearing of anything on this than anyone 03:18
4 else. 03:18
5 MR. NOVIKOFF: Again, the tape says 03:18
6 what it says. Unless you are going to test 03:18
7 on this witness' hearing -- I mean, are you 03:18
8 going to represent that you heard those 03:18
9 words? 03:19
10 MR. GRAFF: I am, but I have 03:19
11 listened to it a few more times. 03:19
12 MR. NOVIKOFF: Okay. There you go. 03:19
13 **Q. Did you hear reference to JT? 03:19**
14 MR. NOVIKOFF: If you could. 03:19
15 A. Yes, I did. 03:19
16 **Q. And do you recall discussing JT with 03:19**
17 **Kevin Lamm in any telephone conversation? 03:19**
18 A. No. 03:19
19 **Q. Do you recall independent of this 03:19**
20 **recording whether JT had a girlfriend at some 03:19**
21 **point between 2006 and the present who passed 03:19**
22 **away? 03:19**
23 A. Rephrase your question. 03:19
24 **Q. Do you recall whether JT who works 03:19**
25 **at CJ's bar from 2006 to today ever had a 03:19**
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1 Moran
2 **Q. Did you hear a reference to JT? 03:17**
3 MR. NOVIKOFF: I am going to object, 03:17
4 Ari. 03:18
5 A. What are you -- 03:18
6 MR. NOVIKOFF: No. If the question 03:18
7 is does anything here refresh his 03:18
8 recollection, that's appropriate. If the 03:18
9 question is does he recall the 03:18
10 conversation, that's appropriate. If you 03:18
11 are going to ask him, and I should have 03:18
12 objected a couple of questions ago and I am 03:18
13 putting on the record I am, did he hear a 03:18
14 reference to, then I am objecting, because 03:18
15 the audio speaks for itself. If there is a 03:18
16 reference to the names or the words or the 03:18
17 phrases that you are referring to, then 03:18
18 they either appear or they don't appear on 03:18
19 this audio. What you are then asking this 03:18
20 witness, though, is essentially a hearing 03:18
21 test. Your hearing is different than my 03:18
22 hearing, which is different than the court 03:18
23 reporter's, different than Mr. Fiorillo's, 03:18
24 different than the witness'. 03:18
25 MR. GRAFF: Exactly. I am trying to 03:18
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1 Moran
2 **girlfriend who passed away? 03:19**
3 MR. NOVIKOFF: Objection to form. 03:19
4 A. I can't recall at this time. 03:19
5 **Q. Do you recall ever discussing with 03:19**
6 **anyone the subject of illegal drug use in Ocean 03:19**
7 **Beach? 03:19**
8 A. No. I can't recall. 03:19
9 MR. GRAFF: I thank you very much 03:19
10 for your time. I am concluded for now. 03:19
11 MR. NOVIKOFF: Mr. Connolly is going 03:20
12 to go and then I will have some questions 03:20
13 for you. 03:20
14 EXAMINATION BY 03:20
15 MR. CONNOLLY: 03:20
16 **Q. Mr. Moran, how long have you known 03:20**
17 **Ed Carter? 03:20**
18 A. About three years. 03:20
19 **Q. And had you first met Mr. Carter 03:20**
20 **through your employment at Ocean Beach? 03:20**
21 A. Yes. 03:20
22 **Q. And since April of 2006, have you 03:20**
23 **seen Mr. Carter? 03:20**
24 A. No. 03:20
25 **Q. Since April of 2006 have you had any 03:20**
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1 **Moran**
2 **conversations with Mr. Carter? 03:20**
3 A. No. 03:20
4 **Q. For how long have you known Kevin 03:20**
5 **Lamm? 03:20**
6 A. Ten years. 03:20
7 **Q. And did you know Mr. Lamm in the 03:20**
8 **course of Ocean Beach? 03:21**
9 A. Yes. 03:21
10 **Q. And how did you first meet Mr. Lamm? 03:21**
11 A. When I started as a dockmaster. 03:21
12 **Q. And how about Mr. Fiorillo? 03:21**
13 A. I met him when he first -- when I 03:21
14 was a dockmaster on his first season as a cop. 03:21
15 **Q. And had you seen Mr. Fiorillo since 03:21**
16 **April of 2006? 03:21**
17 A. No. 03:21
18 **Q. Have you spoken with Mr. Fiorillo 03:21**
19 **since April of 2006? 03:21**
20 A. No. 03:21
21 **Q. When did you first meet Mr. Nofi? 03:21**
22 A. When his first summer with the 03:21
23 Village. 03:21
24 **Q. And how many years ago was that? 03:21**
25 A. I can't recall the exact date. His 03:21
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1 **Moran**
2 first summer working. 03:21
3 **Q. Since April of 2006 have you seen 03:21**
4 **Mr. Nofi? 03:21**
5 A. No. 03:21
6 **Q. Since April of 2006 have you had any 03:21**
7 **conversations with Mr. Nofi? 03:21**
8 A. Just that one time when he called me 03:21
9 a while ago. That was it. 03:22
10 **Q. And who initiated that conversation? 03:22**
11 A. He called me. 03:22
12 **Q. And where were you when you had that 03:22**
13 **conversation? 03:22**
14 A. I was in my car working with the 03:22
15 city, driving around. 03:22
16 **Q. That was on a cell phone? 03:22**
17 A. Yes, sir. 03:22
18 **Q. Had you provided the cell phone 03:22**
19 **number to Mr. Nofi? 03:22**
20 A. Repeat your -- 03:22
21 **Q. Did you provide your cell phone 03:22**
22 **number to Mr. Nofi? 03:22**
23 A. No. 03:22
24 **Q. And when did you first meet Tom 03:22**
25 **Snyder? 03:22**
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1 **Moran**
2 A. When I was dockmaster. 03:22
3 **Q. Okay. How many years ago was that? 03:22**
4 A. Probably like six years ago 03:22
5 probably. 03:22
6 **Q. And since April of 2006 have you had 03:22**
7 **any contact with Mr. Snyder? 03:22**
8 A. No. 03:23
9 **Q. And since April of 2006 have you had 03:23**
10 **any conversations with Mr. Snyder? 03:23**
11 A. No. 03:23
12 **Q. I believe earlier you indicated that 03:23**
13 **your family has maintained a home on Ocean 03:23**
14 **Beach for many years now; is that correct? 03:23**
15 A. Yes. 03:23
16 **Q. How long has the family owned a 03:23**
17 **home? 03:23**
18 A. Since 1979. 03:23
19 **Q. Can you tell me how many people 03:23**
20 **reside in the Village of Ocean Beach off 03:23**
21 **season? 03:23**
22 MR. GRAFF: Objection. 03:23
23 A. About 200 people year round, 250. 03:23
24 **Q. And how many residents or visitors 03:23**
25 **are in Ocean Beach during the summer season? 03:23**
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1 **Moran**
2 MR. GRAFF: Objection. 03:23
3 **Q. On a daily basis? 03:23**
4 MR. GRAFF: Objection. 03:23
5 A. Usually triple that number. 03:23
6 **Q. So that would be 600 people? 03:23**
7 A. No, maybe a thousand, if that. 03:24
8 Basically it grows in size. 03:24
9 **Q. Did you ever have a conversation 03:24**
10 **with George Hesse regarding Kevin Lamm? 03:24**
11 A. Yes. 03:24
12 **Q. When did that conversation occur? 03:24**
13 MR. GRAFF: Objection. 03:24
14 A. I can't recall the exact. 03:24
15 **Q. Was that conversation after April of 03:24**
16 **2006? 03:24**
17 A. Yes. 03:24
18 **Q. Where were you during the -- where 03:24**
19 **did the -- 03:24**
20 A. Oh, it was the police station. 03:24
21 **Q. So it occurred in the police 03:24**
22 **station? 03:24**
23 A. Yes. 03:24
24 **Q. What exactly did Mr. Hesse say to 03:24**
25 **you regarding Mr. Lamm? 03:25**
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1 **Moran**
2 A. The whole thing with his review, I 03:25
3 guess, that he got a review for the -- because 03:25
4 he wanted to get on the job with the Suffolk PD 03:25
5 and that he got some review he had to fill out 03:25
6 for Kevin and that was it. 03:25
7 **Q. Did you ever see a copy of this 03:25**
8 **review? 03:25**
9 A. No. 03:25
10 **Q. Did you ever speak to anybody in 03:25**
11 **Suffolk -- within the Suffolk County -- 03:25**
12 **withdrawn. 03:25**
13 **Do you know for whom the review was 03:25**
14 **for? 03:25**
15 MR. GRAFF: Objection. 03:25
16 A. It was for Kevin, but he didn't say 03:25
17 what the exact details of what it entailed. 03:26
18 **Q. Can you be specific as to what 03:26**
19 **George said? 03:26**
20 A. I can't. I can't recall. 03:26
21 **Q. Do you know in what regard the 03:26**
22 **review was made? 03:27**
23 A. No. 03:27
24 **Q. Do you know for whom the review was 03:27**
25 **made? I don't mean Kevin. Who was the review 03:27**
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1 **Moran**
2 questions, just to clear up some things. 03:28
3 EXAMINATION BY 03:28
4 MR. NOVIKOFF: 03:28
5 **Q. Mr. Graff asked you a couple of 03:28**
6 **questions about radio codes. Do you remember 03:28**
7 **that? 03:28**
8 A. Yes. 03:28
9 **Q. And as a dispatcher are the -- only 03:28**
10 **with regard to conversations that you are on, 03:29**
11 **are codes the only way police officers 03:29**
12 **communicate with each other over the radio, 03:29**
13 **police radio? 03:29**
14 MR. GRAFF: Objection. 03:29
15 MR. NOVIKOFF: What's the objection? 03:29
16 MR. GRAFF: Presumably other than 03:29
17 codes they say words. 03:29
18 MR. NOVIKOFF: Well, that's what I 03:29
19 am trying to ascertain from the witness. 03:29
20 MR. GRAFF: But I think your 03:29
21 question makes it unclear do they 03:29
22 communicate in anything other than code on 03:29
23 the radio. 03:29
24 **Q. Okay. Do they communicate in your 03:29**
25 **experience, the dispatcher, in any other manner 03:29**
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1 **Moran**
2 **given to? 03:27**
3 A. I don't know. 03:27
4 **Q. Earlier you testified about a 03:27**
5 **meeting of officers that occurred on April 2nd, 03:27**
6 **2006. Correct? 03:27**
7 A. Yes. 03:27
8 **Q. Do you have a recollection of seeing 03:27**
9 **Ed Carter that day? 03:27**
10 A. No, I can't recall that. 03:27
11 **Q. Do you have a recollection of seeing 03:27**
12 **Tom Snyder that day? 03:28**
13 A. No, I can't recall. 03:28
14 **Q. Do you have a recollection of seeing 03:28**
15 **Kevin Lamm that day? 03:28**
16 A. Yes. 03:28
17 **Q. Do you have a recollection of seeing 03:28**
18 **Frank Fiorillo that day? 03:28**
19 A. I can't recall. 03:28
20 **Q. Do you have a recollection of seeing 03:28**
21 **Joe Nofi that day? 03:28**
22 A. I can't recall. 03:28
23 MR. CONNOLLY: I have no further 03:28
24 questions. Thank you. 03:28
25 MR. NOVIKOFF: I have a few 03:28
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1 **Moran**
2 **other than through codes? 03:29**
3 A. When I do -- when I am on the desk, 03:29
4 I use the ten codes plus plain English. 03:29
5 **Q. What do you mean by "plain English"? 03:29**
6 A. Let's say, for example, there is a 03:29
7 fight. For Suffolk PD it's 1016, fight. I 03:29
8 would say XYZ officer, 1016, fight, at such and 03:29
9 such address, such and such a place, for me how 03:29
10 I do it, to clarify what the call would be. 03:29
11 **Q. Okay. So if I understand you 03:30**
12 **correctly, if you -- when you are 03:30**
13 **dispatching -- and you have been a dispatcher 03:30**
14 **since 2006; right? 03:30**
15 A. Yes. 03:30
16 **Q. You would give, for example, a 1016? 03:30**
17 A. Yes. 03:30
18 **Q. And then you would in plain English 03:30**
19 **describe to the best of your ability what is 03:30**
20 **transpiring? 03:30**
21 A. Correct. 03:30
22 **Q. And are you a voluntary fireman? 03:30**
23 A. Yes. 03:30
24 **Q. For whom? 03:30**
25 A. Right now I am Village of Tarrytown 03:30
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1 Moran
2 Fire Department. 03:30
3 **Q. Does the volunteer Fire Department 03:30**
4 **in Tarrytown use plain English as well as 03:30**
5 **codes? 03:30**
6 A. We just use plain English. No more 03:30
7 ten codes. 03:30
8 **Q. Why is that, from the best of your 03:30**
9 **knowledge? 03:30**
10 A. From what FEMA mandates, that they 03:30
11 have to go to plain English, a couple of years 03:30
12 ago. 03:30
13 **Q. Now, Mr. Graff at the beginning of 03:30**
14 **this deposition asked you certain questions 03:30**
15 **about what transpired in April of 2006 03:30**
16 **concerning the plaintiffs and I believe your 03:31**
17 **answer was that they were let go. Do you 03:31**
18 **recall giving that answer? 03:31**
19 A. Yes. 03:31
20 **Q. What do you mean by "let go"? 03:31**
21 A. That they weren't hired back for the 03:31
22 season. 03:31
23 **Q. Okay. So, to your knowledge, were 03:31**
24 **they fired? 03:31**
25 A. Yeah, I thought they were fired or 03:31
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1 Moran
2 let go. 03:31
3 **Q. Okay. And what makes you think that 03:31**
4 **they were fired as opposed to not just rehired? 03:31**
5 A. Because we are basically seasonal 03:31
6 employees. If the Village wants us, let us go 03:31
7 or fire us, it is what it is. 03:31
8 **Q. Okay, fine. Now, let's just go over 03:31**
9 **your employment history a little bit with the 03:31**
10 **Village. Starting in 1999 you were a 03:31**
11 **dockmaster? 03:31**
12 A. Yes. 03:31
13 **Q. And how many hours per week did you 03:31**
14 **work on average that first year? 03:31**
15 A. Eight hours a day, so 40 hours a 03:32
16 week. 03:32
17 **Q. And did you have any other full-time 03:32**
18 **employment at that time? 03:32**
19 A. No, that was it. 03:32
20 **Q. Through what year were you a 03:32**
21 **dockmaster for which you worked 40 hours a week 03:32**
22 **on average? 03:32**
23 A. From '99 to 2003. 03:32
24 **Q. And what occurred in or around 03:32**
25 **2003 -- well, and after 2003 were you a 03:32**
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1 Moran
2 **dockmaster in 2004? 03:32**
3 A. Yes. 03:32
4 **Q. Okay. And how many hours per week 03:32**
5 **in 2004 did you work as a dockmaster? 03:32**
6 A. Eight hours on the weekends. 03:32
7 **Q. And can you explain why from '99 03:32**
8 **through 2003 you worked 40 hours a week and in 03:32**
9 **2004 you worked eight hours a week on average? 03:32**
10 A. On average, between those -- the 03:32
11 first was my only job for the summer, like a 03:32
12 summer job. Then after 2003 I hired with the 03:32
13 Fire Department, so that was my full-time 03:32
14 position, and then after that I worked just 03:32
15 weekends. 03:32
16 **Q. Who hired you in 1999 to be a 03:32**
17 **dockmaster? 03:33**
18 A. Chief Paradiso. 03:33
19 **Q. And who hired you in 2006 to be a 03:33**
20 **dispatcher? 03:33**
21 A. George Hesse. 03:33
22 **Q. Did George Hesse hire you in 2000? 03:33**
23 A. No. 03:33
24 **Q. Did George Hesse hire you in 2001? 03:33**
25 A. No. 03:33
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1 Moran
2 **Q. Did George Hesse hire you in 2002? 03:33**
3 A. No. 03:33
4 **Q. Did George Hesse hire you in 2003? 03:33**
5 A. No. 03:33
6 **Q. Did George Hesse hire you in 2004? 03:33**
7 A. No. 03:33
8 **Q. Now, Mr. Graff asked you a couple of 03:33**
9 **questions about who assigned you while you were 03:33**
10 **a dockmaster to work as a dispatcher on certain 03:33**
11 **occasions. Do you remember that? 03:33**
12 A. Yes. 03:33
13 **Q. I believe, and correct me if I am 03:33**
14 **wrong, you testified that it was George Hesse. 03:33**
15 **Correct? 03:33**
16 A. Uh-huh. 03:33
17 **Q. And in response to another question 03:33**
18 **Mr. Graff asked you whether it was 03:34**
19 **Mr. Paradiso, you answered no, that 03:34**
20 **Mr. Paradiso did not request you, to the best 03:34**
21 **of your recollection, to be a dispatcher while 03:34**
22 **you were a dockmaster; right? 03:34**
23 A. That is correct, yes. 03:34
24 **Q. To your knowledge, why was it that 03:34**
25 **George Hesse asked you and Mr. Paradiso didn't? 03:34**
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1 **Moran**
2 MR. GRAFF: Objection. 03:34
3 MR. NOVIKOFF: Go ahead, you can 03:34
4 answer. 03:34
5 A. Chief Paradiso worked on the day 03:34
6 shift and then George worked on the night 03:34
7 shift, so usually nighttime is busier than the 03:34
8 daytime. That's why we would -- 03:34
9 **Q. Between 1999 and 2003 on how many 03:34**
10 **shifts do you recall Chief Paradiso being the 03:34**
11 **person in charge when you were a dockmaster? 03:34**
12 MR. GRAFF: Objection. 03:34
13 A. One time, if that. 03:34
14 **Q. One time if that? 03:34**
15 A. Yes. 03:34
16 MR. NOVIKOFF: Was there an 03:34
17 objection? 03:34
18 MR. GRAFF: Yes. 03:34
19 MR. NOVIKOFF: What basis? 03:34
20 MR. GRAFF: I'm not sure if I 03:34
21 followed your question. 03:34
22 MR. NOVIKOFF: Okay. I will 03:34
23 rephrase it. 03:34
24 **Q. You were a dock master -- 03:34**
25 A. Yes. 03:34
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1 **Moran**
2 **Q. So to the best of your recollection, 03:35**
3 **less than five occasions in that four-year 03:35**
4 **period Chief Paradiso was your supervisor 03:35**
5 **during your shift? 03:35**
6 A. Correct. 03:35
7 **Q. And on the other occasion it was 03:35**
8 **who? 03:35**
9 A. George. 03:35
10 **Q. And I believe that Mr. Graff asked 03:35**
11 **you questions about whether or not you drank 03:36**
12 **some beers in the barracks? 03:36**
13 A. Yes. 03:36
14 **Q. And I think the record will reflect 03:36**
15 **what your answer was. Were you on duty or off 03:36**
16 **duty? 03:36**
17 A. Off duty. 03:36
18 **Q. Mr. Graff asked you some questions 03:36**
19 **about Mr. Hesse's computer being used by other 03:36**
20 **people than Mr. Hesse. Do you recall that? 03:36**
21 A. Yes. 03:36
22 **Q. To your knowledge, was Mr. Hesse's 03:36**
23 **computer accessible to any police officer in 03:36**
24 **the station house? 03:36**
25 A. Yes. 03:36
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1 **Moran**
2 **Q. -- during the 1999 season; correct? 03:34**
3 A. Yes. 03:34
4 **Q. 2000 season? 03:35**
5 A. Yes. 03:35
6 **Q. 2001 season? 03:35**
7 A. Yes. 03:35
8 **Q. 2002 season? 03:35**
9 A. Yes. 03:35
10 **Q. 2003 season; correct? 03:35**
11 A. Yes. 03:35
12 **Q. That's when you were working about 03:35**
13 **40 hours a week; correct? 03:35**
14 A. Correct. 03:35
15 **Q. On how many of the shifts that you 03:35**
16 **had in 1999 through 2003 when you were 03:35**
17 **virtually a full-time seasonal employee for the 03:35**
18 **Village as a dockmaster did Chief Paradiso also 03:35**
19 **work with you on that shift, to the best of 03:35**
20 **your knowledge? 03:35**
21 A. I can't recall that right now. 03:35
22 **Q. On how many -- so you can't recall? 03:35**
23 A. Yes. 03:35
24 **Q. Less than five? 03:35**
25 A. Yes. 03:35
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1 **Moran**
2 **Q. Okay. Same thing to a dispatcher? 03:36**
3 A. Yes. 03:36
4 **Q. And now Mr. Graff asked you some 03:36**
5 **questions about two or three people asking for 03:36**
6 **George at the station house. I think one of 03:36**
7 **them was JT, one of them was Ian Levine and the 03:36**
8 **other guy was Mr. Burns. Do you recall that? 03:36**
9 A. Yes. 03:36
10 **Q. Any other people in your time at the 03:36**
11 **station house ask for George Hesse? 03:37**
12 A. Yes, numerous people. 03:37
13 **Q. On more than one occasion? 03:37**
14 A. Yes. 03:37
15 **Q. Other than those three people, did 03:37**
16 **you ever see others in George Hesse's office 03:37**
17 **having a conversation with him? 03:37**
18 A. Yes. 03:37
19 **Q. And obviously Mr. Graff -- 03:37**
20 **withdrawn. Mr. Graff had you listen to certain 03:37**
21 **audio tapes of a phone conversation or phone 03:37**
22 **conversations or excerpts of those phone 03:37**
23 **conversations between you and your friend at 03:37**
24 **the time, Kevin Lamm. Do you recall that? 03:37**
25 A. Yes. 03:37
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1 Moran
2 **Q. Did Mr. Lamm ever advise you that he 03:37**
3 **was taping the conversations? 03:37**
4 A. No. 03:37
5 **Q. To this day has Mr. Lamm ever 03:37**
6 **advised you that he has taped your 03:37**
7 **conversations? 03:37**
8 A. No. 03:37
9 **Q. In your view, is that an act of a 03:37**
10 **friend? 03:37**
11 A. No. 03:37
12 **Q. Have you ever observed any police 03:38**
13 **officers drinking in the bars of Ocean Beach 03:38**
14 **while on duty? 03:38**
15 A. No. 03:38
16 **Q. Have you ever witnessed George Hesse 03:38**
17 **drinking in the bars on Ocean Beach while on 03:38**
18 **duty? 03:38**
19 A. No. 03:38
20 MR. GRAFF: Objection. To the 03:38
21 extent that he knows if he was on or off 03:38
22 duty at the time he witnessed him. 03:38
23 MR. NOVIKOFF: Okay. 03:38
24 **Q. Let's talk about Mr. Fiorillo for a 03:38**
25 **second. Did there come a time that 03:38**
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1 Moran
2 **year on the job? 03:40**
3 A. That is correct. 03:40
4 **Q. And there is absolutely no doubt in 03:40**
5 **your mind as you sit here today that that was 03:40**
6 **said by Mr. Fiorillo to you? 03:40**
7 A. He told me directly. 03:40
8 **Q. Right. So there is absolutely no 03:40**
9 **doubt that as you sit here today Mr. Fiorillo 03:40**
10 **told you that while on duty he got oral sex 03:40**
11 **from a woman in police barracks? 03:40**
12 A. Yes. 03:40
13 **Q. There is no doubt? 03:40**
14 A. No. He told me directly. 03:40
15 **Q. Let's talk about Mr. Nofi. Did you 03:40**
16 **ever hear Mr. Nofi use the phrase "mother 03:40**
17 **fucker"? 03:40**
18 A. Yes. 03:40
19 **Q. In what context did you hear 03:40**
20 **Mr. Nofi use the phrase "mother fucker"? 03:40**
21 A. At times when he was on patrol, he 03:40
22 would, I guess, whistle and say, "come here, 03:40
23 mother fucker." 03:40
24 **Q. Who was he talking to? 03:40**
25 A. General public. 03:40
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1 Moran
2 **Mr. Fiorillo bragged about getting oral sex 03:38**
3 **from a woman in the barracks? 03:38**
4 A. Yes. 03:38
5 **Q. Can you describe what Mr. Fiorillo 03:38**
6 **said to you? 03:38**
7 A. You want me to -- 03:38
8 **Q. Yes, please. 03:38**
9 A. In detail or -- 03:38
10 **Q. In as much detail as you can 03:39**
11 **possibly recall. 03:39**
12 A. Okay. We were at the station. I 03:39
13 think it was his first year working and I was 03:39
14 back in the squad room and then he came in the 03:39
15 back, was sitting down in the back washing off 03:39
16 his hands and he said that he had -- he had 03:39
17 hooked up with some lady named Terry at the 03:39
18 time and he had to wash his hands because the 03:39
19 stench was very great. 03:39
20 **Q. Now, was Mr. Fiorillo on duty or off 03:39**
21 **duty at the time, according to Mr. Fiorillo? 03:39**
22 A. On duty. 03:39
23 **Q. So we are clear, Mr. Fiorillo told 03:39**
24 **you that he had gotten oral sex from a woman in 03:39**
25 **the barracks while on duty during his first 03:39**
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1 Moran
2 **Q. All right. Let me just understand 03:40**
3 **this then. While Mr. Nofi was on duty as a 03:40**
4 **police officer, you personally witnessed him 03:40**
5 **blow his whistle in the direction of a civilian 03:40**
6 **and say to that civilian, "hey, you mother 03:41**
7 **fucker"? 03:41**
8 A. He said, "come here, mother fucker." 03:41
9 **Q. And based upon your interaction with 03:41**
10 **Mr. Nofi -- well, on how many occasions did you 03:41**
11 **hear Mr. Nofi do this? 03:41**
12 A. More than once. It was a lot. 03:41
13 **Q. When you say "a lot," was it -- in 03:41**
14 **your presence -- withdrawn. 03:41**
15 **In your opinion, was it his normal 03:41**
16 **way of talking to civilians on Ocean Beach? 03:41**
17 A. At times, yes. 03:41
18 **Q. And for what purpose, if you know, 03:41**
19 **did he -- was he calling the civilians over 03:41**
20 **with his whistle and saying, "come over here, 03:41**
21 **mother fucker"? 03:41**
22 MR. GRAFF: Objection. 03:41
23 A. I don't -- that's the way he was. 03:41
24 **Q. Was he acting, in your opinion, in 03:41**
25 **the capacity as a police officer? 03:41**
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1 **Moran**
2 A. Yes. 03:41
3 **Q. Was he issuing summonses at least in 03:41**
4 **your presence when he called these people over 03:41**
5 **and called them a mother fucker? 03:42**
6 A. At times, yeah, he would walk -- 03:42
7 yeah, if he was -- if he saw something in 03:42
8 violation, he would say with his mouth -- 03:42
9 whistle with his mouth and say, "come here, 03:42
10 mother fucker." 03:42
11 **Q. Okay. Let's talk about Ed Carter 03:42**
12 **for a second. 03:42**
13 **Did there come a time in your 03:42**
14 **capacity as a dispatcher that you had to call 03:42**
15 **Ed Carter to answer -- to respond to a call and 03:42**
16 **that he was slow because he was sleeping? 03:42**
17 A. Yes. 03:42
18 **Q. Can you describe when that took 03:42**
19 **place? 03:42**
20 A. When I was -- I can't give you the 03:42
21 exact year, but I was at the desk. It was Ed 03:42
22 and -- Eddie was working and Tommy -- Tommy 03:42
23 Shore was working. 03:42
24 **Q. Shore or Snyder? 03:42**
25 A. Sorry. Snyder. I'm sorry. Tommy 03:42
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1 **Moran**
2 A. He said he was going to go upstairs. 03:44
3 **Q. Did Mr. Carter go up to the barracks 03:44**
4 **often during his tour to catch a nap or go to 03:44**
5 **sleep? 03:44**
6 MR. GRAFF: Objection. 03:44
7 **Q. In your presence. 03:44**
8 A. When I was working? 03:44
9 **Q. Yes. 03:44**
10 A. That was probably the only time I 03:44
11 recalled him doing it in my presence. 03:44
12 **Q. In your presence. Okay. 03:44**
13 MR. NOVIKOFF: I have nothing 03:44
14 further. 03:44
15 MR. GRAFF: Okay. I have a few 03:44
16 items of redirect. 03:44
17 FURTHER EXAMINATION BY 03:44
18 MR. GRAFF: 03:44
19 **Q. Did you actually ever see Ed Carter 03:44**
20 **asleep while he was on duty? 03:44**
21 A. No. 03:44
22 **Q. Is there any rule that would 03:44**
23 **prohibit an on-duty police officer from being 03:44**
24 **in the barracks for any reason? 03:44**
25 A. Any -- repeat your question. 03:44
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1 **Moran**
2 Snyder. They were both upstairs in the 03:42
3 barracks. Some lady was calling the station in 03:43
4 regards to -- she had like a wild animal, I 03:43
5 guess, in her chimney, so she kept calling to 03:43
6 see if we could respond to help her out, and 03:43
7 then as soon as I got down the information I 03:43
8 would normally radio it out to the officers, 03:43
9 respond, you know, and then a couple times -- 03:43
10 once they told me to actually tell her to call 03:43
11 Animal Control and there was numerous 03:43
12 occasions, went back and forth. Finally Chief 03:43
13 Paradiso at the time came on the radio and 03:43
14 heard this and told them to go on the call. 03:43
15 **Q. So how do you know as you sit here 03:43**
16 **today that Ed Carter was either in the barracks 03:43**
17 **sleeping or for some other reason unable to 03:43**
18 **answer the call promptly? 03:43**
19 A. He was upstairs. When I -- my 03:43
20 recollection was he was upstairs in the 03:43
21 barracks. 03:44
22 **Q. How do you know that? 03:44**
23 A. That's where they were. 03:44
24 **Q. Okay. How do you know he went up 03:44**
25 **there? 03:44**
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1 **Moran**
2 **Q. Is an on-duty police officer 03:44**
3 **forbidden to be in the barracks for any reason? 03:44**
4 MR. NOVIKOFF: Note my objection to 03:44
5 the form of the question. 03:45
6 A. No. 03:45
7 **Q. On any of the occasions when you, as 03:45**
8 **you testified, saw Officer Nofi refer to a 03:45**
9 **civilian as a mother fucker, was anyone else 03:45**
10 **present? 03:45**
11 A. Yeah, other civilians when he was on 03:45
12 patrol. 03:45
13 **Q. Can you identify any of those 03:45**
14 **civilians? 03:45**
15 MR. NOVIKOFF: Objection to form. 03:45
16 A. No. 03:45
17 **Q. Can you identify any of the 03:45**
18 **individuals that Mr. Nofi, as you say, made 03:45**
19 **that statement to? 03:45**
20 A. Can you repeat your question. 03:45
21 **Q. Do you know who any of the people 03:45**
22 **who Mr. Nofi, as you testified, referred to as 03:45**
23 **a mother fucker, do you know who those people 03:45**
24 **are? 03:45**
25 A. No. 03:45
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1 Moran
2 **Q. Do you recall the intersection or 03:45**
3 **any other descriptor of the location where you 03:45**
4 **saw Mr. Nofi make any of those statements? 03:45**
5 A. In town in Bay Walk. 03:45
6 **Q. Where in Bay Walk? 03:45**
7 A. Within the business district on Bay 03:45
8 Walk. I can't give you the address, but it was 03:46
9 on Bay Walk. 03:46
10 **Q. And where were you standing? 03:46**
11 A. I was with him when he did it. 03:46
12 **Q. Why were you with him on that 03:46**
13 **occasion? 03:46**
14 A. Because I was there. I can't tell 03:46
15 you why. I was there with him. 03:46
16 **Q. Were you just passing by or were you 03:46**
17 **on your way somewhere with Officer Nofi? 03:46**
18 MR. NOVIKOFF: Objection to form. 03:46
19 A. I was on my way to get something to 03:46
20 eat when I saw him in town on Bay Walk and 03:46
21 that's what he said. 03:46
22 **Q. And do you remember the gender of 03:46**
23 **the person Mr. Nofi -- 03:46**
24 A. No, that I can't recall. 03:46
25 **Q. Do you recall the race of the 03:46**
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1 Moran
2 **Q. Did you ever hear George Hesse brag 03:47**
3 **about having sex with anyone in the barracks? 03:47**
4 A. No. 03:47
5 **Q. Did you ever hear George Hesse brag 03:47**
6 **about having sex with any residents of Ocean 03:48**
7 **Beach? 03:48**
8 MR. NOVIKOFF: Now I am going to 03:48
9 object. That goes beyond the scope of my 03:48
10 examination, Ari. I think the first 03:48
11 question was completely appropriate, having 03:48
12 sex in the barracks, and I think whether it 03:48
13 was off duty or on duty it's appropriate. 03:48
14 You didn't ask him in your direct 03:48
15 examination about having sex anywhere on 03:48
16 Ocean Beach and I certainly didn't ask. 03:48
17 **Q. Okay. Did you ever hear Officer 03:48**
18 **Hesse brag about having sex with anyone on 03:48**
19 **duty? 03:48**
20 A. No. 03:48
21 **Q. Did anyone else ever make any 03:48**
22 **statements to you about Officer Hesse having 03:48**
23 **sex on duty? 03:48**
24 A. No. 03:48
25 MR. CONNOLLY: Objection. 03:48
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1 Moran
2 **person? 03:46**
3 A. No. 03:46
4 **Q. Can you recall any identifying 03:46**
5 **details of any of the people you testified you 03:46**
6 **saw Mr. Nofi refer to as mother fucker? 03:46**
7 A. No. 03:46
8 **Q. Can you identify any specific 03:46**
9 **individuals who were ever present on any of the 03:47**
10 **occasions when you, as you testified, heard 03:47**
11 **Mr. Nofi refer to a civilian as a mother 03:47**
12 **fucker? 03:47**
13 A. Can you rephrase that one more time. 03:47
14 **Q. Can you identify or name anyone else 03:47**
15 **who was ever present on any of the occasions 03:47**
16 **you testified you saw Mr. Nofi refer to a 03:47**
17 **civilian as a mother fucker? 03:47**
18 A. I saw it when I was with him. From 03:47
19 what I can recall, I was with him at the time 03:47
20 he did it. Other people I can't recall. 03:47
21 **Q. Did you ever report to anyone that 03:47**
22 **you had heard Officer Nofi refer to a civilian 03:47**
23 **as a mother fucker? 03:47**
24 A. No. 03:47
25 MR. NOVIKOFF: Objection to form. 03:47
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1 Moran
2 **Q. Did anyone ever tell you that as a 03:48**
3 **dispatcher you are required to use both the 03:48**
4 **codes and plain English? 03:48**
5 A. No. 03:48
6 **Q. Did anyone ever tell you as a police 03:48**
7 **dispatcher that you are required to use the 03:48**
8 **codes? 03:48**
9 A. Yes. 03:48
10 **Q. As far as you know, do all other 03:48**
11 **dispatchers use both the codes and plain 03:49**
12 **English? 03:49**
13 MR. NOVIKOFF: Objection to form. 03:49
14 A. Whatever the dispatchers do on their 03:49
15 shifts, they do. Whatever they -- but we use 03:49
16 the ten codes when we dispatch. 03:49
17 **Q. Other than the reference regarding 03:49**
18 **Kevin Lamm that George Hesse mentioned to you, 03:49**
19 **did George Hesse ever refer to any other 03:49**
20 **references or recommendations for any other 03:49**
21 **officers? 03:49**
22 A. No. 03:49
23 **Q. So the only time George Hesse ever 03:49**
24 **referred to any reference that he gave for any 03:49**
25 **other officer was that reference about Kevin 03:49**
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1 **Moran**
2 **Lamm? 03:49**
3 A. Correct, from what he told me. 03:49
4 **Q. Okay. And what did he tell you 03:49**
5 **about the nature of the reference he gave? 03:49**
6 A. That he got -- he gave a reference 03:49
7 to Kevin and he didn't give me details of what 03:49
8 went where. He just said he gave a reference 03:49
9 for Kevin and that was it. 03:49
10 **Q. I believe earlier you testified that 03:49**
11 **he told you he gave a negative reference. Is 03:49**
12 **that clear? 03:49**
13 MR. NOVIKOFF: His testimony is what 03:50
14 his testimony is. You just asked him a 03:50
15 question. His testimony is what it is and 03:50
16 let the chips fall. 03:50
17 **Q. Do you recall whether anyone else 03:50**
18 **was present at the time that Frank Fiorillo, as 03:50**
19 **you testified, bragged about having oral sex in 03:50**
20 **the barracks? 03:50**
21 A. I was with him after the fact. 03:50
22 **Q. Was anyone else present? 03:50**
23 A. No, just me and him. 03:50
24 **Q. Do you recall who the woman in 03:50**
25 **question was? 03:50**
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1
2 **C E R T I F I C A T E**
3
4 **STATE OF NEW YORK)**
5 **) ss.:**
6 **COUNTY OF NASSAU)**
7
8 I, KRISTIN KOCH, a Notary Public
9 within and for the State of New York, do
10 hereby certify:
11 That CHRISTOPHER JAMES MORAN, the
12 witness whose deposition is hereinbefore
13 set forth, was duly sworn by me and that
14 such deposition is a true record of the
15 testimony given by such witness.
16 I further certify that I am not
17 related to any of the parties to this
18 action by blood or marriage; and that I am
19 in no way interested in the outcome of
20 this matter.
21 IN WITNESS WHEREOF, I have hereunto
22 set my hand this 11th day of June, 2009.
23
24 **KRISTIN KOCH, RPR, RMR, CRR, CLR**
25
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1 **Moran**
2 A. Yes. 03:50
3 **Q. Who was she? 03:50**
4 A. Terry. 03:50
5 **Q. Who is Terry? 03:50**
6 A. Some lady within the Village. I 03:50
7 don't know her last name. 03:50
8 MR. GRAFF: Thank you. 03:50
9 (Time noted: 3:50 p.m.) 03:50
10
11
12 -----
13 **CHRISTOPHER JAMES MORAN**
14
15 Subscribed and sworn to before me
16 this day of 2009.
17
18 -----
19
20
21
22
23
24
25
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1
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21 Kevin T. Lambo business card, Bates
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25 Photocopy of writing, two pages..... 92 19
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Exhibit 6
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ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: Carter v. Ocean Beach

Dep. Date: June 8, 2009

Deponent: Christopher James Moran

CORRECTIONS:

Pg. Ln.	Now Reads	Should Read	Reason
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Signature of Deponent

SUBSCRIBED AND SWORN BEFORE ME

THIS ____ DAY OF _____, 2009.

(Notary Public) MY COMMISSION EXPIRES: _____

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